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CONTENTS

	Paragraphs	Page
INTRODUCTION	1 - 6	5
PART ONE		
DEVELOPMENTS RELATING TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA		
I. STATUS OF THE CONVENTION	7	7
II. STATE PRACTICE AND NATIONAL POLICY	8 - 20	7
A. State practice	8 - 14	7
B. Initiative of the Secretary-General	15 - 20	8
III. SETTLEMENT OF CONFLICTS AND DISPUTES	21 - 40	10
A. Delimitation agreement	21 - 23	10
Trinidad and Tobago/Venezuela	21 - 23	10
B. Joint development	24 - 28	10
1. Australia/Indonesia	25	11

CONTENTS (continued)

		Paragraphs	Page
	2. Malaysia/Thailand	26 - 28	11
C.	Settlement of disputes	29 - 40	12
	1. Maritime boundaries disputes	29 - 36	12
	2. Other disputes	37 - 40	13
IV.	OTHER DEVELOPMENTS RELATING TO THE LAW OF THE SEA	41 - 144	14
A.	Peace and security issues	41 - 50	14
	1. Prevention of naval incidents at sea	45 - 48	15
	2. The passage of nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances	49 - 50	16
B.	Protection and preservation of the marine environment	51 - 89	17
	1. The role of the Convention on the Law of the Sea	51 - 55	17
	2. Navigation and marine environmental protection	56 - 68	18
	3. Strengthening and integrating regimes for maritime safety and pollution prevention	69 - 85	21
	4. Antarctica	86 - 89	25
C.	Conservation and management of living marine resources	90 - 135	26
	1. Problems and opportunities for world fisheries	90 - 107	26
	2. Strengthening international cooperation	108 - 122	31
	3. Cooperation on highly migratory species	123 - 126	36
	4. High seas fisheries and straddling stocks	127 - 133	37
	5. Marine mammals	134 - 135	39
D.	Policy developments with respect to marine scientific research	136 - 144	39

CONTENTS (continued)

		Paragraphs	Page
V.	THE PREPARATORY COMMISSION FOR THE INTERNATIONAL SEABED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA	145 - 176	42
	A. Plenary	146 - 155	43
	1. Implementation of resolution II of the Third United Nations Conference on the Law of the Sea	146 - 151	43
	2. Preparation of draft agreements, rules, regulations and procedures for the International Seabed Authority	152 - 155	44
	B. Special Commission 1	156 - 160	45
	C. Special Commission 2	161 - 166	46
	D. Special Commission 3	167 - 170	47
	E. Special Commission 4	171 - 176	47

PART TWO

ACTIVITIES OF THE OFFICE FOR OCEAN AFFAIRS AND THE LAW OF THE SEA

I.	INTRODUCTION	177 - 184	49
II.	SERVICING THE PREPARATORY COMMISSION	185 - 186	50
III.	ADVICE AND ASSISTANCE	187 - 207	51
	A. Direct assistance to Governments and intergovernmental organizations	187 - 197	51
	B. Advice, special studies	198 - 199	53
	C. Training and fellowships	200 - 207	54
IV.	PUBLICATIONS AND MONITORING AND ANALYSIS OF DEVELOPMENTS	208 - 230	55
	A. Legislative history, State practice and technical guides	208 - 214	55

CONTENTS (continued)

	Paragraphs	Page
B. Bulletins, annual reviews, directories and information circulars	215 - 219	56
C. Law of the Sea Information Systems and Library	220 - 230	57
1. Law of the Sea information systems	220 - 225	57
2. Law of the Sea library	226 - 228	58
3. Select Bibliographies on Ocean Affairs and the Law of the Sea	229 - 230	59
V. COOPERATION WITHIN THE UNITED NATIONS SYSTEM	231 - 238	59

INTRODUCTION

1. The present report is submitted to the General Assembly in response to its resolution 45/145 in which the Secretary-General was requested, inter alia, to report on developments pertaining to the United Nations Convention on the Law of the Sea and all related activities on the implementation of that resolution. Other reports have been prepared at the request of the General Assembly: a second report on the realization of benefits under the United Nations Convention on the Law of the Sea in regard to development and management of ocean resources (A/46/722) prepared pursuant to General Assembly resolution 45/145 and a report on large-scale driftnet fishing and its impact on the living marine resources of the world's oceans and seas (A/46/615 and Add.1). The present report should be complemented by the above-mentioned reports.

2. The Convention provides the indispensable foundation for the conduct of States in all aspects of ocean space, its uses and resources, to such an extent that it has now become possible for States actively and confidently to consider building on its single and authoritative basis, recognizing the dynamic nature of international legal development. The unique role and status of the Convention is also a central consideration in facing issues where maritime and coastal State interests may conflict, and where the individual exercise of sovereign and jurisdictional rights may impinge upon the rights of the international community, as is becoming more evident in the field of marine environmental protection and conservation. Indeed, rule-making and standard-setting activities by international organizations will be enhanced by the entry into force of the Convention. Issues relating to interpretation and application of the Convention may be expected to arise as States seek to resolve differences of national interest when organizing regional or subregional cooperation, and cooperative arrangements with respect to marine environmental protection and the management and conservation of resources.

3. States have consistently, through national and international legislation, and through related decision-making at bilateral, regional and global levels, demonstrated or asserted the authority of the Convention as the pre-eminent international legal instrument on all matters within its purview. Such assertions have sometimes been prompted by concerns as to the potential for erosion of the basic rules of the Convention which reflect a delicate balance between the rights and duties of States in the maritime area. As ocean uses evolve and, with them, perceptions of national security and developmental and environmental protection needs, it becomes all the more necessary to preserve this balance.

4. A major new commitment is required to bring common cause to bear on the future of the Convention. Greater certainty is undoubtedly required for the effective implementation of ocean-management regimes, including particularly the closely interrelated regimes for international navigation, resource management and conservation, marine environmental protection, and also the promotion and conduct of marine scientific research. Selective application of

Convention provisions, on the one hand, and the inconsistent and/or unbalanced application of the regime, on the other, will pose yet greater threats to the support for and the stability offered by the Convention. In consolidating the gains made by the international community in successfully concluding this Convention, entry into force remains an important step. However, this cannot and should not be regarded as an end in and of itself. The ultimate goal must be to achieve the widest possible participation and acceptance of the Convention.

5. Since its inception in 1984, the annual report of the Secretary-General on the Law of the Sea has sought to present the most relevant developments and to identify important trends. Special, additional reports have also been prepared in recent years at the request of the General Assembly.

6. Closer attention needs to be given to all relevant developments in international law and policy and to the national practice of States, preferably through a more effective monitoring mechanism which permits consultation and exchange of views. In this respect the initiatives taken by the Office for Ocean Affairs and the Law of the Sea to convene various expert groups (on baselines in 1989, on the marine scientific research consent regime in 1990, and on the high-seas fisheries regime in 1991) have been considered an important contribution.

PART ONE

DEVELOPMENTS RELATING TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

I. STATUS OF THE CONVENTION

7. The 1982 United Nations Convention on the Law of the Sea received a total of 159 signatures before the period for signature closed on 9 December 1984. It will enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession. As at 20 November 1991, 49 instruments of ratification and 2 of accession (a total of 51) have been deposited with the Secretary-General, as follows: Angola, Antigua and Barbuda, Bahamas, Bahrain, Belize, Botswana, Brazil, Cameroon, Cape Verde, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Dominica, Egypt, Fiji, Gambia, Ghana, Grenada, Guinea, Guinea-Bissau, Iceland, Indonesia, Iraq, Jamaica, Kenya, Kuwait, Mali, Marshall Islands, 1/ Mexico, Micronesia (Federated States of), 2/ Namibia, Nigeria, Oman, Paraguay, Philippines, Saint Lucia, Sao Tome and Principe, Senegal, Seychelles, Somalia, Sudan, Togo, Trinidad and Tobago, Tunisia, Uganda, United Republic of Tanzania, Yemen, Yugoslavia, Zaire and Zambia.

II. STATE PRACTICE AND NATIONAL POLICY

A. State practice

8. The major impact of the Convention has been on the delimitation of maritime jurisdictional zones. Currently 133 States have established territorial seas not exceeding 12 miles, 33 States have adopted a 24-mile contiguous zone and 82 States have proclaimed a 200-mile exclusive economic zone. Sixteen States have claims to 200 miles exclusive fishery zones. The maritime claims all accord with the limits prescribed in the Convention on the Law of the Sea.

9. Poland has now enacted a general maritime law (July 1991) which, inter alia, converts its previous exclusive fishery zone into an exclusive economic zone (EEZ), joining the USSR as the only other State with an EEZ in the Baltic. Sweden is in the process of developing legislation, while Denmark, Finland and Germany continue to maintain exclusive fishery zones. The Polish law calls for a multiple-use and integrated approach to resource management, and is generally in conformity with the Convention.

10. The recent Polish law contains a number of clauses which may serve to illustrate several possible trends in EEZ and territorial-sea legislation as concerns the balance between maritime and coastal State interests - trends which do not strictly conform with the Convention. The legislation requires that only "wilful" pollution, rather than "wilful and serious" pollution, would render passage non-innocent; it maintains a requirement of a

pre-existing law calling for prior authorization for the passage of foreign warships; it reaffirms the power to designate areas closed to navigation and fisheries within the territorial sea for security reasons, while adding the authority to designate areas dangerous for navigation or fisheries beyond the territorial sea.

11. Another area that has been positively affected by the adoption of the Convention is the passage of ships in the territorial sea or through straits used for international navigation. The provisions of the Convention relating to this matter have been incorporated into the legislation of many coastal States. An example of important legal action taken by States, in connection with the application of the provisions of the Convention relating to the rules of innocent passage, is contained in the Joint Statement by the United States of America and the Union of Soviet Socialist Republics concerning a Uniform Interpretation of Rules of International Law governing Innocent Passage, signed on 23 September 1989. This instrument unequivocally declared that the relevant rules of international law governing innocent passage of ships in the territorial sea were those contained in the Convention on the Law of the Sea. 3/

12. With regard to transit passage through straits used for international navigation embodied in the Convention, it has been remarked that, although compliance has not been universal, the rules have made an important contribution to the stability of the regime.

13. The United States and the Soviet Union are currently preparing for talks concerning "objective criteria for determining straight baselines and historic bays". The intention is to establish criteria which are consistent in every respect with the Convention.

14. The Convention was primarily designed to reflect the law of the sea in time of peace. However it has, as was to be expected, influenced the law of naval warfare, in particular, the rules of neutrality. The establishment of a 12-mile territorial sea and the creation of precise rules for innocent passage, transit passage and archipelagic - sealanes passage have contributed to the clarification of the rights and duties of neutral States and those of belligerent forces. It has been noted that these rules assumed some importance in the context of the Gulf War. 4/

B. Initiative of the Secretary-General

15. In his report to the forty-fifth session of the General Assembly the Secretary-General informed the General Assembly of his initiative to convene informal consultations aimed at achieving universal participation in the 1982 United Nations Convention on the Law of the Sea. The Secretary-General had noted that, while he continued to encourage all States that have not done so to ratify or accede to the Convention, it had to be recognized that the problems on certain aspects of the deep-seabed mining provisions of the Convention have inhibited some States from ratifying or acceding to it. He

was of the view that these problems have to be addressed. He had further noted that eight years had elapsed since the Convention was adopted and that during that period a number of important political and economic changes had taken place, some directly affecting the deep-seabed mining provisions of the Convention, others affecting international relations in general; in particular, that the prospect for commercial mining of deep-seabed minerals had receded into the next century and that this was contrary to what was expected at the time when the Convention was being negotiated. These factors will of necessity have to be taken into account in the examination of the problems that may exist with respect to the deep-seabed mining provisions of the Convention.

16. The Secretary-General explained that the purpose of these consultations was to respond to the invitation of the General Assembly issued to all States to make renewed efforts to facilitate universal participation in the Convention and, at the same time, to facilitate the successful completion of the work of the Preparatory Commission.

17. During 1991, the Secretary-General continued with his informal consultations in the course of which nine issues relating to the regime for deep-seabed mining, as contained in the Convention, were identified as problem areas for some States: costs to States Parties; the Enterprise; transfer of technology; production limitation; compensation fund; financial terms for contracts; decision-making; environmental considerations; and the Review Conference.

18. Participants agreed to examine each of these issues with a view to identifying areas where broad agreement existed and those that would require further examination. The examination of these issues was based on an information note, prepared by the Secretariat, which raised the questions that needed to be addressed and suggested possible approaches towards resolving them. The issues relating to the costs to States Parties; the Enterprise; decision-making; the Review Conference; and transfer of technology have already been examined. Considerable progress has been made towards achieving broad agreement on these issues. The Secretary-General is encouraged by the positive and constructive responses from States on the suggestions for possible approaches that might be taken to resolve these issues. He is of the view that these consultations have provided a good basis on which an agreement satisfactory to all States can be achieved.

19. The remaining four issues, namely, production policy; compensation fund; financial terms of contracts; and environmental considerations are to be examined during December 1991.

20. After all the issues have been examined, the Secretary-General intends to summarize the results of the entire consultations in a statement. He also wishes to widen the participation in these informal consultations in order to enable all interested States to take part in them.

III. SETTLEMENT OF CONFLICTS AND DISPUTES

A. Delimitation agreement

Trinidad and Tobago/Venezuela

21. In April 1990, after many years of negotiation the two countries concluded a Treaty on the Delimitation of the Marine and Submarine Areas, which provides for a single maritime boundary. It establishes a single maritime boundary with respect to the territorial sea, continental shelf and the exclusive economic zone. It is significant that this Treaty has modified the line delimiting the submarine area established by the 1942 Gulf of Paria Treaty in the Serpents Mouth and along parts of the Colombus Channel. It also makes provision for the related issue of petroleum and other mineral resources which may extend across the delimitation line, and calls for agreement on the manner of exploitation and the apportionment of costs and benefits which, it may be noted, is the almost universal practice for maritime boundaries agreements concerning the continental shelf. The Treaty also requires the Parties to adopt all measures for the preservation of the marine environment within their respective areas and to exchange pertinent information and notify each other of any pollution threat in the maritime zone.

22. This Treaty is in keeping with several maritime delimitation agreements already concluded by the continental States of the Caribbean region. It is multi-purpose in the sense that it is not solely concerned with delimitation. It also seeks to facilitate cooperation between the Parties with respect to the protection and preservation of the marine environment and the preservation of the freedom of navigation. 5/

23. Venezuela and Trinidad and Tobago exchanged instruments of ratification on 23 July 1991. By an exchange of notes it was made clear that the words "zonas en reclamación", which appeared on the map attached to the Treaty, should not be interpreted as implying endorsement by the Government of the Republic of Trinidad and Tobago of the claim by the Government of the Republic of Venezuela to the area indicated. This was designed to protect the position of Trinidad and Tobago with respect to the boundary dispute between Guyana and Venezuela.

B. Joint development

24. The trend towards creation of joint development zones for exploration and exploitation of mineral resources also continues, particularly in cases where they can serve as provisional measures or otherwise circumvent potentially disruptive overlapping claims. The concept has been born out of the realization that unresolved boundary problems may last for an indefinite period, preventing investment in the offshore mineral sector. Thus, the joint development zone has enabled a number of countries to benefit from the resources, without prejudice to the boundary issue. The value of such zones is also recognized in agreements which serve the primary purpose of delineating

maritime boundaries, by making specific provision for the possibility of future joint development.

1. Australia/Indonesia

25. A first meeting of the Ministerial Council, established by the 1989 Timor-Gap Treaty, has taken place and steps are being taken by Australia and Indonesia to set up the offices of the Joint Authority; bids will be called for the first exploration permits to be awarded under the production-sharing approach adopted. Negotiations on the delimitation of the continental shelf in the Timor-Gap area have been started. The two countries are also increasing their cooperation on fisheries matters based on a Memorandum of Understanding regarding a provisional boundary between their respective fishery zones.

2. Malaysia/Thailand

26. The Agreement on Constitution and Other Matters relating to the Establishment of the Malaysia-Thailand Joint Authority (signed on 30 May 1990) is now in force (29 January 1991) and steps are being taken to establish the Authority. The Agreement, which represents more than 11 years of negotiation, implements their 1979 Memorandum of Understanding on the establishment of a joint authority for the exploitation of the resources of the seabed in a defined area of the continental shelf of the two countries in the Gulf of Thailand.

27. The Joint Authority assumes all rights and responsibilities for the exploration and exploitation of mineral resources in the designated area for a period of 50 years. If the Parties resolve the problem of the delimitation of the boundary of the continental shelf before then, the Authority shall be wound up and a new arrangement concluded, if both so decide; if no solution is found in that time, the arrangement will continue. The Agreement further provides that, if any other area of interest is discovered which extends beyond the present limits of the defined area, the Authority and the Parties shall seek to reach agreement on its exploitation.

28. Similar to the 1989 Timor-Gap Treaty, the Agreement uses a production-sharing system of licensing; also, rights conferred or exercised by either Party in matters of fishing, navigation, hydrographic and oceanographic surveys, prevention and control of marine pollution and other matters including enforcement powers extend to the zone and such rights must be recognized by the Joint Authority.

C. Settlement of disputes

1. Maritime boundaries disputes

(a) Guinea-Bissau v. Senegal

29. On 12 November 1991, the International Court of Justice delivered, in the case concerning the Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal), a judgment by which it rejected the submission of Guinea-Bissau that: (i) the Award of 31 July 1989 is inexistent; (ii) subsidiarily, it is absolutely null and void; (iii) the Government of Senegal is not justified in seeking to require Guinea-Bissau to apply the Award. The Court found, on the submission to that effect of Senegal, that the Award is valid and binding for both States, which have the obligation to apply it.

30. The Court took note of the fact that, on 12 March 1991, Guinea-Bissau filed in the Registry of the Court a second application requesting the Court to adjudge and declare "What should be, on the basis of the international law of the sea and of all the relevant elements of the case, including the future decision of the Court in the case concerning the Arbitral Award of 31 July 1989, the line (marked on a map) delimiting the whole of the maritime territories appertaining respectively to Guinea-Bissau and Senegal." The Court also took note of the declaration by Senegal in which one solution "would be to negotiate with Senegal, which has no objection to this, a boundary for the exclusive economic zone or, should it prove impossible to reach an agreement, to bring the matter before the Court". The Court considered it highly desirable for the elements of the dispute not settled by the Arbitral Award of 1989 to be resolved as soon as possible as both Parties desire (International Court of Justice Communiqué, 12 November 1991).

(b) Qatar v. Bahrain

31. Qatar filed an application on 8 July 1991 based on Article 36 (1) of the Court's Statute, requesting the Court to adjudge and declare in accordance with international law that the State of Qatar has sovereignty over the Hawar Islands and that it has the sovereign rights over Dibal and Qit'at Jaradah shoals. The Court was also requested, with due regard to the line dividing the seabed of the two States described in the United Kingdom decision of 23 December 1947, to draw in accordance with international law a single maritime boundary between the maritime areas of seabed, subsoil and superjacent waters appertaining respectively to the State of Qatar and the State of Bahrain. 6/

(c) Denmark v. Norway

32. The Court has not yet delivered judgment in the case concerning Maritime Delimitation in the Area between Greenland and Jan Mayen.

(d) El Salvador v. Honduras

33. The Chamber of the Court is still seized of the case concerning the Land, Island and Maritime Frontier Dispute (El Salvador v. Honduras). It will be recalled that the Chamber delivered a Judgment on the Application by Nicaragua for permission to intervene. 7/

(e) Canada v. France (St. Pierre and Miquelon)

34. The 1989 Agreement Establishing a Court of Arbitration for the Purpose of Carrying Out the Delimitation of Maritime Areas between France and Canada, has now been put into effect.

35. The islands of St. Pierre and Miquelon are situated close to Newfoundland, creating disagreement over fishing rights in the large area of overlapping claims. The resources have clearly been heavily fished, and the situation has been complicated by scientific disagreement over the health of stocks in the disputed waters and the amount of fish that could be harvested safely. There is also hydrocarbon potential in the disputed zone although this has not yet been fully assessed; some exploration permits that have been issued overlap.

36. The arbitral tribunal has been requested to construct in accordance with the applicable principles and rules of international law, a single maritime boundary. The Tribunal held public hearings in New York from 29 July to 26 August 1991 and is expected to hand down the award during the early part of 1992.

2. Other disputes

(a) Passage through the Great Belt (Finland v. Denmark)

37. Finland instituted proceedings at the International Court of Justice on 17 May 1991 against Denmark in respect of the dispute which arose out of Denmark's project to construct a fixed bridge over the East Channel of the Great Belt, one of three straits used for international navigation linking the Baltic and North Seas. The bridge, it was claimed, would have the effect of closing permanently the Baltic for deep draught vessels of over 65 metres in height, thus preventing in particular the passage of drill ships and oil rigs manufactured in Finland. Finland requested the Court to rule inter alia that there is a right of free passage through the Great Belt for all ships going to and from Finnish ports and shipyards; that this right extends to drill ships, oil rigs and reasonably foreseeable ships; and that the planned bridge would be incompatible with this right. Finland stated that its drillships and oil rigs have exercised passage rights through the Great Belt since 1972 and that currently many of them exceed 65 m in height. Finland also requested an indication of provisional measures (23 May 1991), ordering Denmark to refrain from continuing with related construction works.

38. Denmark asserted that Finland was alone in protesting the project, despite repeated diplomatic notification. It pointed to fixed bridges that

span other important waterways and concluded that State practice indicates that 65 metre height is sufficient for the exercise of free passage guaranteed under international law. Denmark has argued, in effect, that the rights of merchant ships were not intended to extend to future vessels of unforeseeable size such as oil rigs and platforms of greater height than 65 metres.

39. On 29 July, the Court unanimously found that circumstances were not such as to require the indication of provisional measures in the case concerning Passage through the Great Belt.

(b) East Timor (Portugal v. Australia)

40. The Government of Portugal has consistently lodged diplomatic protests with Australia, with specific reference to the 1989 Treaty on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia 8/ which entered into force on 11 February 1991, and to negotiations on the delineation of the continental shelf in that zone currently being conducted by Australia and Indonesia. 9/ On 22 February 1991 Portugal submitted an application to the International Court against Australia regarding certain actions undertaken by that country related to East Timor concerning the so-called Timor-Gap. In its note verbale addressed to the Secretary-General Portugal stated that "the application focuses mainly on the opposability to Australia of the right of the people of East Timor to self-determination and of Portugal's capacity as the administering Power of that Non-Self-Governing Territory. Through that application Australia's international responsibility is claimed." 10/ Portugal has noted that the 1989 Treaty is presented as a provisional arrangement of a practical nature, relating solely to the development of hydrocarbon resources, but that it also makes provision for and regulates certain acts of exercise of jurisdiction. Portugal asserts the right to self-determination of the people of East Timor and its own status as the administering Power, and claims that Australia has failed to comply with its obligation to negotiate with it. Portugal specifically requests that Australia cease its efforts with Indonesia concerning delimitation and resource development, and generally refrain from exercising jurisdiction over the continental shelf in the area of the Timor-Gap. 11/

IV. OTHER DEVELOPMENTS RELATING TO THE LAW OF THE SEA

A. Peace and security issues

41. Regional and international peace and security are increasingly more broadly defined in terms of the factors involved, perhaps most particularly as they relate to the maritime domain, where sovereign rights and exclusive jurisdiction over resources and environmental protection interests are frequently perceived as touching also on individual and collective security interests. Participation in the Convention and its entry into force of the Convention could do much to limit the occurrence, scope and content of conflict, whether by resolving legal points of dispute, by activating the many

mechanisms for cooperation which it mandates, or by offering access to its comprehensive system for settling disputes.

42. It is generally accepted that a number of key provisions of the Convention, particularly those dealing with the passage of ships, contribute directly to conflict avoidance and thus to confidence-building in the maritime domain. 12/ On the other hand, ensuring the primary "peaceful uses" purpose of the Convention and the orderly application of its rules on rational management and sustainable development requires that continuing efforts be made to develop confidence-building measures (CBMs).

43. Specific proposals have been made relative to various regions that States should sign and ratify the Convention on the Law of the Sea, in order to convey a normative value as well as to provide a mechanism for the settlement of disputes. 13/

44. Meetings of States of the zone of peace and cooperation of the South Atlantic have, since their inception, paid particular attention to law of the sea issues and the development of national maritime policies. The recent meeting of the Group of Experts (April 1991) recommended that member States that had not done so should consider ratifying the Convention and developing a regional system of information on law of the sea and marine affairs. It also proposed bilateral and subregional attention to enforcement measures for marine environmental protection and measures to avoid negative environmental impacts on straddling stocks. 14/

1. Prevention of naval incidents at sea

45. On 19 June 1990, the USSR concluded with the Netherlands an Agreement on Incidents at Sea beyond the Territorial Sea, similar agreements having been concluded with the United States (1972), the United Kingdom (1986), France (1989), Canada (1989) and Italy (1989). While the most recent agreement recognizes that the basic provisions are the International Maritime Organization (IMO) Collision Regulations, it contains some supplementary rules, e.g. that formations will not manoeuvre through areas with dense shipping traffic, in sea lanes and traffic separation schemes. The desirability of such was strongly emphasized by past consultations held within the United Nations Disarmament Commission. It also establishes a system of prior notification of actions constituting a threat to the safety of navigation or aviation. 15/

46. The latest Joint Statement by the United Kingdom and Argentine Governments (25 September 1991) dealing with reciprocal information and consultation, maritime and air search and rescue, and safety of navigation, includes as confidence-strengthening measures, prior notification of naval or air movements carried out within 80 miles of coasts and mutual agreement for any movement closer than 15 miles. 16/

47. Expansion of the areas of application of existing agreements on mutual restraint in naval operations may well eventuate, as indicated by the interest

of the United States in helping to create a North-East Asian cooperative security system, based inter alia on multilateral application of the provisions of the 1972 United States/USSR Agreement to the seas and air of a designated geographic zone. 17/

48. Incidents-at-sea agreements have also been proposed for the South China Sea and South-East Asian region generally, beginning on a bilateral basis, in keeping with an approach recommended by the United Nations seminar at Kathmandu that bilateral confidence-building measures in the region would be highly appropriate. It has been further recommended that such measures should concentrate on border agreements dealing, inter alia, with security questions, piracy and illegal fishing. Given the potential for incidents arising from fisheries enforcement activities, analogous to those arising from naval exercises, various forums have urged information sharing on the offensive capabilities of the vessels deployed, as well as the extension of regional or subregional cooperation arrangements on enforcement. Such recommendations are also made directly by regional fisheries organizations.

2. The passage of nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances

49. This is one example of a law of the sea issue (see article 23) which has been cited for further legal development, in the interests also of maritime confidence-building. It may be noted that IMO is developing a Code for the safe carriage of irradiated nuclear fuel and, with the International Atomic Energy Agency (IAEA), is assessing future possibilities regarding the use of civilian nuclear-powered ships, to determine whether the present Code of Safety for Nuclear Merchant Ships would be adequate in its coverage and its reflection of nuclear safety technology. 18/ IAEA reports that some 9 civilian nuclear-powered vessels have been commissioned, and that there are some 575 nuclear-powered naval vessels, about 510 being submarines. Sea transport of nuclear materials is common practice for materials within the nuclear fuel cycle. In addition, sealed radiation sources are used widely in the marine environment in navigation aids and in association with engineering, construction, and oil and gas prospecting and extraction.

50. In the context of the review being conducted for Parties to the London Dumping Convention (LDC) on the overall question of the management of low-level radioactive wastes, IAEA has reported on incidents, both confirmed and unconfirmed, which have involved nuclear materials. 19/ Continuing developments with respect to the maritime law aspects of the transboundary movement of hazardous wastes and radioactive wastes can also be expected to contribute to the development of a special regime under article 23 of the Convention.

B. Protection and preservation of the marine environment

1. The role of the Convention on the Law of the Sea

51. Attention is drawn to the 1989 Report on Protection and Preservation of the Marine Environment (A/44/461 and Corr.1), which will be updated and expanded upon in a second report to be issued early in 1992. As emphasized in that report, the Convention is itself an instrument for environmentally sustainable development, and must be read as a whole. This is essential, not only to appreciate the balance of rights and obligations achieved in the Convention, which serve to demonstrate that a State's security, economic and environmental interests are compatible, but also to take account of the reliance placed on global and regional cooperation as regards also marine scientific research and the development and transfer of marine technology. 20/

52. The Convention places States under the responsibility to protect and preserve the marine environment, and thus to prevent, reduce and control all sources of marine pollution; and it ensures that the measures taken give due regard to legitimate uses of the marine environment. It imposes unprecedented obligations upon States with respect to marine pollution that may arise from activities under their jurisdiction or control, particularly as regards the degree of cooperation called for at regional and subregional levels to ensure harmonized policies and maximum uniformity and standardization of environmental regulation. The Convention does not and could not provide all of the specific details; rather it is a basic framework that other global, regional or subregional agreements must respect.

53. There is a large body of existing international law on protection and preservation of the marine environment, global and regional, supported by the basic framework contained in the Convention, which together far exceed any other component of international environmental law. Nevertheless, the marine environment and its resources continue to experience serious and growing degradation. It is of paramount urgency that existing agreements and instruments be widely accepted and fully complied with, and that outstanding problems be dealt with. Important efforts are being made by international organizations in this regard, particularly by IMO in its efforts to strengthen mechanisms for promoting and ensuring compliance with its Conventions and instruments, and by the United Nations Environment Programme (UNEP), in reviewing the successes and failures of its Regional Seas Action Plans and Conventions. Questions as to the extent that principles and rules of international law can be developed to deal with the dominant source of marine pollution - that which comes directly from the land and via the atmosphere - is finally receiving world attention, beginning with the task of outlining a global strategy and plan of action, with a particular focus on regional components. 21/

54. It is readily apparent that there is a continuous need to balance potentially conflicting uses and interests, including navigational rights and environmental protection interests. Trends in this regard are discussed below. Also discussed are the current efforts to improve compliance with international conventions on maritime safety and pollution prevention.

55. Environmental considerations are an increasingly important factor for world fisheries, which are already struggling to deal with the impacts of the serious pressure on resources and mounting competition over fishing rights. Major adjustments and improvements in national and international management and conservation regimes are indicated, as well as the need for a strong commitment to responsible fishing practices. Several trends, including the phenomenon of large-scale pelagic driftnet fishing, have combined to underline the need for international consultations with particular reference to the legal regime for high seas fisheries. Relevant developments are discussed in section IV.

2. Navigation and marine environmental protection

56. State practice shows a strengthening of coastal State powers, particularly as regards pollution combating operations and intervention measures in the EEZ, and also to some extent as regards the protection of the marine environment in general. IMO is conscious that coastal States may feel a growing need for having more power with respect to the numerous smaller maritime incidents, in order, for example, to improve opportunities for claiming costs of clean-up which is not at present covered under Intervention Convention and Protocol. It may be noted that the Marine Environmental Protection Committee (MEPC) has adopted 22/ a revised list of substances annexed to the 1973 Protocol Relating to Intervention on High Seas in Cases of Marine Pollution by Substances Other than Oil; and will now proceed to study in detail the criteria for identifying substances. These however, as has been affirmed by MEPC, would be subordinate to certain prerequisites, namely, that a coastal State can only intervene if there is grave and imminent danger from pollution or threat of pollution, if there is some relationship between the casualty and the damage, and if major harmful consequences are reasonably expected. It is none the less being queried whether the rather high thresholds of present international law with respect to emergency response at sea, particularly as regards intervention, may need to be lowered, not so much in the interests of the economic interests of coastal States, as in favour of the protection of the marine environment.

57. It may also be noted that IMO is being asked to respond to an increasing number of proposals as concerns mandatory ship reporting, especially for ships entering zones established to control ship traffic, including areas which extend beyond the territorial sea. It has been argued that such a measure would be analogous to reporting requirements under Protocol I to the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) for ships carrying oil or dangerous substances, and would give the flag States the means of taking action against infringments outside territorial waters. 23/ Opinions have been expressed that under certain cirumstances, maritime safety would be enhanced by mandatory reporting schemes in international waters, especially in the case of environmentally vulnerable areas, and for ships carrying harmful cargoes. International criteria for the designation of such mandatory schemes, as well as procedures, would have to be first developed by IMO.

58. Basic issues as to navigational rights have been confronted in other contexts also, e.g. in the preparation of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which came into force on 11 November 1990 and the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, as well as of the 1989 Basel Convention on the Transboundary Movements of Hazardous Wastes and the 1990 Protocol on Protected Areas of the Wider Caribbean Region. 24/ In several instances, States have made declarations and entered objections pertaining to navigational rights, including statements on such specific issues as prior notification. 25/ Also to be noted is the inclusion of a footnote on navigational rights in respect of the provision of the 1990 IAEA Code of Practice on International Transboundary Movement of Radioactive Waste concerning the sovereign right to prohibit transboundary waste movements. 26/ While generally acceptable formulations have been found in most cases, fundamental concerns persist and warrant close and urgent attention from the international law of the sea community.

59. It may be noted that similar issues have arisen in the domain of search and rescue operations also. The IMO Legal Committee was recently requested to consider the legal basis for a right of assistance entry with prior notification into the territorial seas and archipelagic waters of foreign coastal States in order to render assistance to persons, ships or aircraft in danger or distress. The conclusion reached was that there was a duty to render assistance to save human life, and that the matter of a right of entry should be dealt with in bilateral or regional agreements; there was, however, no such right presently in international law, conventional or customary. It may be noted that many delegations further emphasized that it was important not to upset the delicate balance between the duty to render assistance and the sovereign right of coastal States to control entry into and operations in their waters. 27/

60. The above issues essentially revolve around the comparative powers and responsibilities of flag States, port States and coastal States, and the impact of designating marine protected areas and creating a distinct regime for the maritime transport of hazardous wastes.

(a) Ships and marine protected areas

61. The problems of navigation and pollution prevention come together, particularly with the finalization of the IMO Guidelines for the designation of special areas and the identification of particularly sensitive areas, which are before the next Assembly for adoption. 28/ It is noteworthy that the IMO Council is aware of the effect on international law that designation of "particularly sensitive areas" and resulting restrictions on traditional freedom of passage may have and that it has expressed the view that this matter and other decisions of a similar character merit careful study and consideration by the Organization as a whole (C 66/D, para. 7.4).

62. The distinction between a special area and a particularly sensitive sea area is made as follows: A special area is a sea area where for recognized technical reasons in relation to its oceanographical and ecological condition

and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by oil is required; a particularly sensitive area is an area which needs special protection through action by IMO because of its significance for recognized ecological or socio-economic or scientific reasons and which may be vulnerable to damage by maritime activities.

63. The Guidelines remind that a MARPOL special area is large, in order to ensure a clear distinction from high-seas discharge criteria; indeed, every existing area is a semi-enclosed sea in the oceanographic sense. The number of Special Areas under MARPOL 73/78 Annexes has expanded considerably in the last two years, however, they can only become effective when adequate port-reception facilities are available. 29/ The new Guidelines on designation provide greater detail as compared to the existing MARPOL definition.

64. The role of the Convention is discussed in the Guidelines, noting that there are some important differences between its provision and the concept of Special Areas under MARPOL 73/78: in article 211 (6)(a) of the Convention on the Law of the Sea, the onus is on the coastal State to define area-specific measures and then submit them to IMO for approval; whereas the requirements for Special Area status under MARPOL are defined in the respective annexes. It is further noted that the LOS definition refers to utilization or protection of the resources of the area in question, and thus anticipates a broader range of measures than is currently the case with MARPOL Special Areas. 30/

65. While the Guidelines recognize that marine protected areas may be designated within territorial seas, and beyond, the warning is also given that protective measures affecting shipping cannot be taken unilaterally, since "principles such as freedom of navigation (in international waters) and the right of innocent passage (in territorial waters) may be applicable". 31/

66. The Guidelines accord an important role to the various ships' routeing measures which were originally designed to respond to navigational hazards, e.g. areas to be avoided, precautionary areas, and vessel traffic services (VTS) including compulsory pilotage, and note that, with the exception of traffic separation schemes, 32/ all other routeing measures are recommendatory. The use of VTS is recommendatory in international waters. The most far-reaching measure is an "area to be avoided", namely, an area with defined limits in which navigation is particularly hazardous or where it is exceptionally important to avoid casualties and thus should be avoided by all ships or certain classes of ships. In view of earlier concerns over the possible proliferation of areas to be avoided, a new procedure was introduced for the consideration of proposals to involve both the Maritime Safety Committee (MSC) and the Marine Environment Protection Committee (MEPC). 33/ IMO has established 16 areas to be avoided, several specifically so as to provide additional environmental protection and they are currently under consideration. The Buffer Zone concept, used in the guidelines on particularly sensitive areas, had also raised concerns as to their use to limit operational discharges on a broad scale. Thus, the above routeing measures may be applied in a buffer zone, provided this is imperative for the protection of the area itself against damage from maritime activities.

(b) Maritime transport and disposal of hazardous wastes

67. It will be recalled that resolutions 2 and 7, adopted together with the 1989 Basel Convention on the Transboundary Movement of Hazardous Wastes, addressed questions of maritime transport and ocean disposal, including the need for compatibility among international legal regimes, and for possible additional measures under IMO Conventions and LDC, e.g. the observance of precautionary measures, in order to assist flag, port and coastal States to fulfil their responsibilities. It should be noted that the distinctions established by the Basel Convention are among exporting States, importing States and transit States. IMO has reiterated the need to ensure that there should be no conflicts or overlaps, not only with existing IMO conventions but also in the future between the projected Basel Protocol on Liability, the draft Convention on Hazardous and Noxious Substances (HNS), and developments under LDC. To date, the Basel Convention has 53 signatories and 14 ratifications, and is generally expected to enter into force in 1992.

68. The 1991 Bamako Convention of 29 January 1991, signed by 11 Organization of African Unity members, includes an outright prohibition on the dumping of hazardous wastes in African waters. Other regions such as Caribbean and Mediterranean are also actively considering introducing regional regimes for strictly controlling or prohibiting shipments and disposal of hazardous wastes. Most regions have already developed projects to monitor and regionally assess illegal traffic in toxic and dangerous products and wastes. 34/

3. Strengthening and integrating regimes for maritime safety and pollution prevention

69. Considerable progress has been made to interrelate and strengthen all rules and standards, guidelines and recommended practices and procedures pertaining to both ship safety and the prevention of pollution. This entails a whole series of adjustments and additions to ensure that they can serve this dual purpose, for example, amalgamation of lists of substances referred to in various instruments.

(a) Safety at sea

70. The International Convention for the Safety of Life at Sea (SOLAS) (to which 111 countries are Parties, covering 97 per cent of merchant tonnage), several other IMO Conventions and the numerous IMO Codes and Recommendations have all contributed to a reduction in the percentage of ships involved in serious casualties or lost at sea. Other instruments cover measures intended to ensure that the consequences of accidents are minimized. However, the sea remains a dangerous place; in fact, the improvement in the accident rate has slowed and even been reversed. 35/ IMO is thus giving priority to further improving existing roll-on/roll-off passenger ferries; to improving the level of safety of existing ships as well as for new ships; to adopting new design and construction requirements for tankers which will more effectively prevent cargo spillage; to developing a comprehensive strategy for reducing the number

of maritime accidents caused by operational error; and last, but by no means least, to promoting wider and more uniform application and enforcement of conventions.

71. Strong concerns have been expressed by IMO as to the impact that a rapidly ageing world fleet will have on the numbers of substandard ships. IMO has issued strong warnings that adverse trading conditions, high costs and changes in the structure of the shipping industry, have combined to threaten past achievements in safety, and thus in pollution prevention. It admittedly faces some difficult choices concerning the speed at which improved rules and regulations should be introduced: if too slow, this may encourage the adoption of unilateral measures, leading to breakdown in the international consensus on safety issues; if too rapid, this may exacerbate the growing gap in the incentive and ability of States to implement IMO requirements. The Organization is actively seeking, therefore, to expand its technical cooperation activities at regional and subregional levels in order to alleviate growing problems of implementation, including the strengthening of existing port State control measures.

72. In the shipping industry today, laid-up tonnage has been recommissioned, old ships which would normally have been scrapped have been kept in service, and crews have continued to shrink with increased automation even though old ships require more crew members, not fewer. The age of ships has clearly been an important factor in more recent losses at sea. The 1991 Fourth Ministerial Conference on Port State Control in Europe (MOU countries) recognized that recent accidents to tankers, ferries and cruise ships were largely caused by poor ship management, both ship-based and shore-based, and that the age of the ships was clearly a factor. The casualty rate for bulk carriers is particularly alarming: in 1990, they accounted for 57 per cent of the ships lost, even though they only represent 7 per cent of the total world fleet. While only 17 per cent of the world fleet is over 15 years old, 34 per cent of the bulk fleet is. 36/ Lloyds of London lists 34 bulk-carrier casualties since the beginning of 1990, with a loss of 250 lives, and cites structural weakness as the main cause.

73. According to both IMO and UNCTAD, the movement to open registers has been a major contributor to the growing occurrences of shipwrecks, scuttling of vessels, maritime fraud and pollution incidents. Open registries now account for one third of world tonnage, grown from 21.6 per cent in 1970 to 34.1 per cent in 1990. Of the 320 ships from some 52 flag countries, found deficient in some way by MOU countries, more than 50 per cent were registered under open registries. The 1986 United Nations Convention on Conditions for Registration of Ships which seeks to establish specific minimum conditions for registration, particularly to establish a genuine link between ship and flag State, has only been ratified by 7 countries which represents 0.8 per cent of the 25 per cent of world tonnage required for its entry into force.

74. Many IMO conventions and amendments apply only to ships built after a specific date, which is usually the date of entry into force; this is due to the expense involved in adjusting existing ships and to the assumption, no

longer valid, that shipowners replace ships regularly. This is no longer the case and the Maritime Safety Committee (MSC) has reached general agreement on the need to reduce the ever-increasing gap in safety standards as between new and existing ships. Its various subcommittees are now working to prepare recommendations where significant differences can be reduced by upgrading standards applicable to existing ships. Earlier decisions on roll-on/roll-off ferries, requiring changes to existing ships also, had established a precedent. A special formula is also being worked out concerning the introduction of double hulls for oil tankers and the use of systems which can guarantee an equivalent result. In order to avoid making old tankers more profitable, MEPC is preparing new regulations for MARPOL Annex I to cover both new and old ships. 37/

75. Also to be noted is the decision to phase amendments to a Convention to allow a 4-year interval between successive amendments and to coordinate dates of entry into force of all instruments having a common link or involving new surveys or ship certificates.

76. The importance of the human factor is ever more apparent in the prevailing conditions. Attitudes have changed, even since the adoption in 1989 of IMO Guidelines on Management for the Safe Operation of Ships and for Pollution Prevention, in view of the number of serious accidents that have involved human error and bad management, and the further potential for accidents stemming from crew fatigue. Thus, IMO has now decided to produce a new SOLAS chapter and Code on safe management to introduce mandatory requirements and make verification possible. This will also necessitate revision of the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention).

(b) Emergency response

77. The 1990 IMO Convention on Oil Pollution, Preparedness and Response (OPRC) will greatly facilitate cooperation at the global level and also reinforce regional arrangements and national activities. It applies to both ships and offshore structures. Both must carry oil-spill emergency plans and both must report all spills, regardless of whether they are directly involved or not. The Parties are required to assess the seriousness of a discharge and notify other affected States. Perhaps the greatest significance of this Convention is its fostering of technical support, scientific research and data exchange, and where appropriate financial support, particularly given its requirements that each Party establish a national contingency plan, and promote the availability of oil-spill response equipment and facilities. 38/

78. The 1990 Conference adopted a number of important resolutions, e.g. on the need to promote cooperative arrangements among interested parties, including the oil and shipping industries, to create stockpiles of pollution-fighting equipment; to improve salvage services; and to apply the provisions of the Convention, where possible, to other hazardous substances, pending the future expansion of the Convention to cover these substances also. That work will not be easy, given the persistent difficulties in

adequately defining hazardous substances, as experienced for instance in efforts to extend the existing Caribbean Emergency Protocol to cover other spills. The Conference also recognized that increased emphasis has to be given to assistance in this area; and IMO with UNEP is developing regional networks for collecting data on maritime transport of harmful substances, both in the Mediterranean and Caribbean.

79. The adoption of the OPRC was extremely timely, greatly facilitating IMO's ability to establish an operational Coordination Centre and Disaster Fund to help deal with the environmental disaster in the Gulf and to render assistance to the revitalization of the Regional Organization for the Protection of the Marine Environment (ROPME). 39/

(c) Flag State and port State jurisdiction

80. Implementation of IMO Conventions, such as MARPOL and SOLAS, depends on the Convention on the Law of the Sea for definition of the scope and content of national jurisdiction, and specifically on its prescription of the powers of flag States, port States, and coastal States, where a clear hierarchy is established. 40/ While implementation of IMO Conventions has relied primarily on flag State responsibility, considerable attention has also been given to the effective coordination of flag State and port State jurisdictional powers concerning inspections, procedures for investigating violations and assessment of the kind of sanctions to be imposed. It may also be noted that port States have taken on new responsibilities as a consequence of the 1988 United Nations Drugs Convention, the IMO Facilitation Convention having been amended this year in order, inter alia, to adjust its standards and recommended practices in this area. IMO is now studying how any negative impact of port-control measures can be avoided, noting that any improper detention of a ship where there is no evidence or presumption of negligence or guilt on the part of the ship operator concerned would be detrimental to the principles of the IMO Convention (A/46/511). Port State actions have also been strengthened with respect to measures against terrorism.

81. Currently, the IMO is seeking to come to grips with the question as to whether the implementation of measures to prevent pollution from ships, as well as to ensure ship safety, should cease to be the exclusive province of the flag State. 41/ This question has been posed, even with respect to the high seas, and even if the pollution to be prevented does not affect the interests of coastal States.

82. The IMO's response to date is two-pronged: applying greater pressure for compliance on flag-State Parties, particularly compliance with provisions for reporting on implementation measures and actions taken against violations; and strengthening the exercise of port-State control. IMO Conventions do not contain requirements for operational control by port States, and existing procedures have thus been limited to matters subject to certification. To strengthen the hand of port States, the MSC has submitted a resolution for adoption at the next IMO Assembly, which introduces "operational procedures" for port States, in respect of both ship safety and pollution prevention.

83. It may be noted that opposition was voiced by major shipping States, querying the legality of operational control by port States. Aware that this can none the less constitute an effective widening of the powers of port States, the draft resolution states that the primary responsibility still lies with flag-State administrations, and urges that port-State actions be taken in good faith. It emphasizes that, since it is impracticable to define a ship as substandard solely in relation to a list of qualifying defects, an inspection must encompass not only the ship but also the crew to reach a sound judgement as to whether a ship poses a major risk and should be detained; moreover, any ship unduly detained or delayed, shall be entitled to compensation for loss. This emphasis on ships' crews stems from MSC's assessment that the main issues in flag-State compliance concern the lack of trained personnel, on ship and on shore. Preliminary texts have been prepared for amendments to MARPOL and SOLAS Conventions to cover these developments.

84. IMO is also increasingly urging the introduction of regional systems of port-State control, recognizing at the same time that this produces the need for interregional cooperation, since world-wide harmonization of procedures is highly desirable.

85. The main impetus for IMO to support increased powers for port States has come from the 14 European maritime authorities, Members of the 1982 Memorandum of Understanding on Port-State Control, following the decision taken at their 1991 ministerial-level Conference to extend control to compliance with operational requirements. They are now conducting 13,000 to 14,000 inspections annually; approximately a quarter have been delayed or detained due to substandard conditions. The USSR has issued a statement of intent to accede to the European Memorandum; Canada, the United States and Australia have developed similar forms of port-State control. These 14 countries have also proposed to IMO extension of vessel traffic management.

4. Antarctica

86. The Eleventh Antarctic Treaty Special Consultative Meeting adopted, on 4 October 1991, a Protocol on Environmental Protection to the Antarctic Treaty, including four Annexes, which form an integral part thereof. The Annexes relate to the Environmental Impact Assessment, the Conservation of the Antarctic Flora and Fauna, Waste Management and Waste Disposal, and the Prevention of Marine Pollution.

87. The Protocol designates Antarctica as "a natural reserve, devoted to peace and science" and sets forth the general principles which will apply to any human activity in Antarctica, so as to ensure that its environmental conditions are preserved, as well as those of its dependent and associated ecosystem.

88. The Protocol provides for the prohibition of all Antarctic mineral-resource activities, with the exception of scientific activities. Provision is also made for the possibility of adopting additional annexes to the Protocol, including in particular rules and procedures relating to liability for damage arising from activities taking place in the Antarctic Treaty area.

89. The Protocol stipulates that after the expiration of 50 years from the date of entry into force, at the request of any Antarctic Treaty Consultative Party, a conference shall be held to review the operation of the Protocol (article 25).

C. Conservation and management of living marine resources

1. Problems and opportunities for world fisheries

(a) Status of and trends in world fisheries

90. Stock depletion and overfishing, made worse by large-scale industrial fleets, and the degradation of ecosystems and marine and coastal habitats, are world-wide phenomena. The most marked effects have been among the richest fisheries. These problems have been acknowledged by various intergovernmental forums, including the Group 7 Economic Summit of July 1991. 42/

91. The 1990 conclusions of the Food and Agriculture Organization of the United Nations (FAO) as to the state of world marine fisheries continue to be valid. Clearly, the past pattern of growth cannot be sustained: fishing of all known stocks is approaching or has reached the maximum level and, in a number of cases, stocks are being overfished; moreover, it is unlikely that new significant stocks will be discovered in the coming years to absorb excess capacity. Natural population fluctuations also contribute to instability, giving additional cause for changes in the yield of certain species and the behaviour of fleets and industry.

92. Aggregated catch statistics cannot alone depict the state of world fisheries: there are also various economic indicators such as: quantitative decreases in catches of the most valuable species; lesser quality as catches transfer to less valuable species; excessive costs from overinvestment in boats and gear; low incomes for fishermen and conflict among fishing groups, particularly between small-scale and large-scale fisheries; and changes in the geography of the industry. These are all trends which are intensifying. Problems of insufficiently selective gear, posing economic as well as environmental problems, of insufficiently comprehensive research, and of unreliable databases add yet further challenges for rational resource management. There is also a widespread belief among scientists and fishery managers that, in many cases, actual catch is in excess of official figures. Problems as regards acquisition of important information and data are as fundamental as failures to identify species caught correctly. This is especially true in tropical areas, where the number of species entering the

catches is considerably higher than in the traditional northern fishing grounds: misidentifications and inaccurate denominations are estimated to comprise 70 per cent of catches in some tropical countries. 43/

93. The actual distribution of the world catch should also be considered. Even though the establishment of exclusive economic zones and exclusive fishery zones has had a pronounced effect on national fish catches (approximately two thirds of the countries concerned have increased their catch at a rate faster than the rate of the world-catch increase), the major gains have been concentrated in a relatively few countries. For example, the top 10 developing countries account for approximately 83 per cent of the marine catch of all developing countries, and the top 15 and 20 for some 91 per cent and 96 per cent respectively. At the same time the traditional pattern of world domination by some 20 States, accounting for some 80 per cent of the world catch, remains, and with very little change in the makeup of the group. Only France and Viet Nam are no longer among them, having been replaced by Mexico and Ecuador. Japan and the USSR continue to hold the lead. The distant-water fishing States have so far continued to increase their absolute catch and in some cases (the USSR, the Republic of Korea and Taiwan Province of China) have done so also in proportion to the world catch.

94. The International Study on Fisheries Research undertaken by the major donors 44/ similarly concludes that world fisheries, both small and large, are characterized by large over capacities, widespread overfishing resulting in low yields, particularly of high-value species and sizes, open conflict and costly but largely ineffective fishery management. It warns that fishery management, which is now mostly restricting itself to the conservation of stocks, should rather be embracing social and economic goals. 45/ In exploring the constraints on fishery development and management, it also warns that small-scale fisheries have been essentially neglected, beginning in the 1970s when EEZs were first established and attention focused on controlling foreign fishing activities. The Study notes also that the crisis in marine fisheries has turned interest to aquaculture, but that this in turn presents its own economic and environmental problems which should not be ignored. This Study attributes failures, where opportunities for expansion are exhausted, to the continuation of open access; FAO also stresses that the removal of open-access conditions, the payment of user fees, and the negotiation of maximum allowable effort levels and allocation schemes would all contribute to greater sustainability.

95. Thus, world marine fisheries are manifesting various signs of stress, exacerbating existing management problems with respect to fisheries in EEZs (some 95 per cent of the catch) and elsewhere in the ocean. It must be emphasized that the problems that beset world fisheries are common to fishing both in the EEZ and on the high seas. The projected gap of some 20 million tons and more between world demand and supply is a clear warning that tensions will mount, and that allocation of resources will become an ever more significant and sensitive issue, not only for individual Governments but also collectively. General questions have been raised as to the most appropriate strategy to be adopted towards fisheries management, and there would appear to

be an emerging consensus that the most urgent goal is to control fishing effort generally. Thus, new attention is focusing on approaches that can address both the demand for fish and fish products and the need to decrease pressure on fish stocks, and thus achieve an optimum relationship between environmental, economic and social factors - an approach embodied in the Convention on the Law of the Sea with regard to the regulation of fisheries both in the EEZ and in the high seas. The Convention highlights the need for cooperation with respect to the conservation and management of marine living resources.

96. The problems and pressures are such that there is a clear need for improvements at all levels, nationally and internationally, and in all aspects - in law and policy, economic planning, technological development, scientific research, and information and data systems. Perhaps the most pronounced recent developments are those that focus on new concepts for the scientific basis of management, new approaches to EEZ management, major improvements in gear selectivity to resolve existing economic and environmental problems in that area, and radical strengthening of international cooperation, including institutional arrangements, for high-seas resources, straddling stocks and shared stocks. There is also a need for further improvement in the cooperative measures to be taken in the management and conservation of highly migratory species.

(b) New approaches to EEZ management

97. It is the decline in fish stocks that has given new prominence to the role of management, but there is marked disagreement as to what measures produce optimal fisheries management. There is agreement on the areas requiring special focus: conservation, economic performance, conflicts between fishermen using different types of gear, and the validity and uncertainty of data concerning fish stocks. These difficulties are even more pronounced in fisheries based on a number of species. Stress is placed on the need first to determine the long-term objectives of fisheries management, objectives which can command public support, reduce conflicts and provide avenues for settlement; then to ensure the ability to collect scientific data, accurately and in a timely manner; and to carry out research that encompasses biological, environmental, economic and social aspects, and is responsive to the needs of management.

98. The main response to threatened stock depletion has been to strengthen regulatory controls, essentially through licence limitations, to tighten conservation measures, and to increase expenditures on monitoring and surveillance. However, as many recent studies have pointed out, these measures have been largely unsuccessful in the face of expanding fleets and advancing technology, and attempts to maintain prosperous fishing industries have almost always failed. It is also stressed that, while advances in fishing technology and improvements in markets for products can alleviate the economic burdens of overexpanded fleets and reduced or lesser valued catches, in the long run such advances will actually aggravate economic problems, since there is every evidence that fleets will still expand beyond the capacity

level actually needed, even if stocks are protected by strict catch controls. It is even argued that resource conservation has become the pretext for avoiding the difficult political decisions as to who gets to fish where. Studies, such as that done by the major donors (see para. 94 above), assert that the fundamental problem resides in continuing with open access when there is no possibility of expansion, and that the best hope both for developed and developing country fisheries is to allocate user rights to fishermen commensurate with the different boats and equipment used.

99. Many coastal States have already excluded everyone from access to stocks except for those who hold licences, and increasingly the rights of licence-holders are quantitatively specified. Many States have revised or reinforced existing arrangements for fisheries development and management, and have now introduced detailed regulations such as those prohibiting fishing according to specified zones and periods, proscribing the use of certain fishing equipment and methods and the age/size of catch. Moreover, many States are seeking to encourage private-sector investment in operational aspects of fisheries while confining government intervention to basic services, such as research, stock assessment, monitoring and control. Small-scale fisheries are beginning to receive far greater attention in a number of countries, including the introduction of property rights and fishing cooperatives.

100. A number of States having reviewed their experience with extended jurisdiction are now beginning to experiment with an approach that does away altogether with open access and gives registered fishing enterprises a clearly defined property right in the resource. The example of New Zealand is most frequently cited, where the catch is controlled by quotas held by fishermen, thus enabling a relaxation of regulations such as closed seasons and gear restrictions and allowing a shift from surveillance at sea to monitoring of landings. The system effectively separates the responsibility for managing operations from that of resource conservation and environmental protection, retaining the latter as the sole responsibility of Government which sets the performance standards specific to each fishery or resource management unit. The New Zealand experience has shown improved management of stocks, reductions in redundant fishing capacity, alleviation of conflicts over the allocation of catch, and substantially improved economic returns from fishing to both industry and Government. The success of such a system, however, depends heavily on a reliable register of rights, and a fast and efficient system of reporting catches, keeping records and enforcing rights. It also produces a substantially increased demand for better stock assessments and the need clearly to identify research priorities and objectives. Australia has issued a new policy statement for the 1990s on needs for structural adjustment and innovative management concepts and methods; Iceland has replaced controls over fishing efforts and days permitted for fishing with catch-quotas assigned to individual vessels (1991); Spain has established a fish-producers organization giving it special responsibilities of resource management and regulation in respect of landings and markets; Sri Lanka's new fisheries plan puts emphasis on more efficient use of resources rather than maximization of output.

101. It is as yet unclear what the dominant management trend will be in the future, particularly since a number of countries have only recently taken the necessary legal and institutional steps consequent on the establishment of an EEZ, or have adopted only recently the policies and regulations required for national exploitation or for entry into joint ventures. There are also continuing widespread problems with monitoring, control and surveillance, regardless of the state of evolution of management, leading countries to tighten access agreements by provisions on port calls, transshipment of catch, and the use of transponders for monitoring. African States bordering the Atlantic, for example, report serious problems with illegal foreign fishing and, like South Pacific States members of the Forum Fisheries Agency, are moving towards regional surveillance arrangements (see para. 126 below). Other responses include Senegal's new Maritime Protection Service (1991) which has been established in response to an estimated $250 million in illegally exported fish in 1990; and Malaysia's establishment of a central command for fisheries monitoring, control and surveillance to coordinate the work of various agencies. Finally, many developing States remain uncertain as to the net benefits to be obtained from developing national catch and management capabilities, given the opportunity costs of such investment, and the conflict of goals for resource utilization as between local consumption and international trade. The value of such trade by developing countries has more than doubled over the past five to six years and now accounts for about 47 per cent of world trade.

102. Recent years have seen numerous instances of the regrouping and reorienting of regional and subregional fisheries cooperation in the North and South Pacific, in the Indian Ocean, and in the Atlantic, so it is also possible that new approaches to management may become more a matter of collective, rather than exclusively individual, decision-making by States. The establishment of new economic integration groups, as in the case of the new South American Common Market, may also be expected to have an important impact on management approaches.

(c) The selectivity of fishing gear

103. Various fishing practices can rapidly deplete targeted stocks, destroy habitat, and damage non-targeted species. Management action needs to restrict the number of vessels or the amount of gear deployed, and/or restrict the effective area of operation for the gear. Management action is also required to encourage such vessels to use more selective gear. The marking of fishing vessels and gear is also an important component of responsible fishing.

104. Insufficiently selective gear will produce by-catches of non-marketable, undersized or non-targeted species, including protected species. Problems associated with the protection of marine mammals have exacerbated to the extent of trade embargoes on catch, as in the case of United States trade restrictions against Mexico, Venezuela and Vanuatu tuna catches, and the consequent issue in GATT as to its recognition of environmental and conservation objectives. Selectivity is the ability of gear to take one species rather than another, the best results depending on the time of

operation and hydrological and other conditions; and, for a single species, to retain only the individuals that have reached a certain size, where results are determined by mesh size. There are, however, particular problems when dealing with multiple stocks or multispecies fisheries, since multispecies gears make conventional management by single species difficult, if not impossible. This may be seen in practice in the North Atlantic, where the theory and practice underlying definition of quotas is now in crisis, with ever increasingly complex problems with multispecies, multigear interactions. Some multigear interactions could be resolved technically, and a few by improved stock assesssment calculations. 46/

105. Mesh regulations are now commonly used. Regulations on the use of gear, however, are only now beginning to be introduced, as evidenced by the number of recent bans, by distance or depth, on trawling close to the coast: in Malaysia and in Senegal, in a 6-mile fringe; in India, in a 5-km strip for small trawlers and a 10-km strip for industrial trawlers; in Suriname and French Guyana to certain specified depths; and in the Gulf of Mexico by seasons as well as zones. Another approach is directed at controlling fishing effort, for example Australian regulations on trawl size and number of trawls per boat.

(d) Marking of fishing gear

106. There is a clear relationship between the marking of fishing gear and problems of entanglement in nets and discarded fishing gear, but there are no international regulations, guidelines or common practice for gear deployed outside of national jurisdictions. This work has now been done by an FAO Expert Consultation (July 1991). The primary purpose of standardized markings is to determine ownership and indicate the position of gear in the water; a marking system will contribute also to the ability of States to meet their obligations under MARPOL Annex V (which covers lost or discarded gear), and should result in less gear being abandoned at sea, and more effective reporting and retrieving of lost gear. 47/

107. Since the Guidelines will be of considerable benefit also to coastal States, various recommendations are made as to their application, e.g., making markings a licensing condition. Among the suggestions made is that fish-aggregating devices (e.g., artificial reefs) should be subject to a system of prior approval and registration. At present, there are very few legal or administrative rules governing these devices. In respect of the safety of navigation, it is further recommended that these devices be treated the same as any other underwater obstruction or offshore structure. IMO is now considering how to reflect the new Guidelines in navigation rules. 48/

2. Strengthening international cooperation

108. Various forums, regional and global, have expressed strong concerns as to the present scope and effectiveness of international cooperation in fisheries. The Group 7 Economic Summit in July, for example, in acknowledging

the threat of overfishing and other harmful practices, has called for the implementation of protective measures in accordance with international law, urging greater compliance with, and more effective monitoring and enforcement measures under, regimes established by regional fisheries organizations. Others have called generally for greater cooperation at bilateral, regional and global levels to ensure the conservation and optimum utilization of high-seas resources, straddling stocks, highly migratory species and transboundary stocks which occur in the jurisdictions of one or more coastal States. The objectives of cooperative action require a special focus on broadening research, improving data systems to support both research and management, and developing sound fisheries practices that minimize waste and reduce by-catch, as well as on strengthening monitoring and surveillance. Coastal State experience with access agreements is now such that strong common positions are possible in a number of regions as to minimum terms and conditions for access.

109. Thus, cooperation in fisheries is now moving on two broad fronts: cooperation among coastal States to achieve objectives which would be unattainable through individual action; and cooperation, albeit at an embryonic stage (except for tuna), on fisheries beyond national jurisdiction.

(a) Priority issues for regions

110. It should be noted that many regional organizations, including fishery bodies, have pointed to the need for close cooperation between programmes and organizations, specifically between FAO/IOC/UNEP, to facilitate research and assessment, and protection from pollution and other types of degradation which affect fishery resources and ecosystems. Regulation of fishing effort is insufficient on its own, and a major problem has been the dispersion of responsibilities among many international and national organizations with competence in the various relevant aspects of resource and environmental use. From the various regional submissions made in the United Nations Conference on Environment and Development (UNCED) context, there is a clearly emerging priority for bringing fisheries and aquatic habitats under effective and integrated management regimes.

The European Community

111. Conditions in the European region are illustrative of problems world wide; and the need to preserve fish stocks may well define the Community's fishing policies over the coming years. 49/ Studies on the state of stocks in the region, in relation to the management record, reveal many years of overfishing compounded by TACs (Total Allowable Catches) being set too high; non-compliance with technical conservation measures so that too many young fish are caught; overcapacity in fleets (at present 40 per cent); and excessive discarding, particularly in mixed fisheries, to avoid exceeding quotas and to comply with by-catch regulations. The TAC/quota system (the division of TAC into individual State quotas) has been the main form of limiting effort; technical conservation measures (mesh size, closed seasons and closed areas) are mainly used to protect immature fish and spawning and nursery grounds.

112. Some more novel and controversial forms have already been attempted. For example, additional restrictions have been applied for several North Sea stocks, beginning in 1991, to reduce the risk of new lower quotas being exceeded, e.g. certain vessels must spend a specified number of days in port and a 12-mile zone is generally reserved for local vessels only.

113. Basic elements of the Community system are now under review, and the Commission will present a report by the end of 1991. Suggestions so far have concentrated on overhauling the TAC/quota system, the adoption of stricter measures for supervising and monitoring fishing effort, and more stringent technical conservation measures. Experts have called for lower TACs, refinement of the system for multispecies fisheries so that species interrelationships are taken into account when setting TACs, and longer-term consistency in setting TACs to encourage longer-term planning by the industry. Also stressed is the need to move to individual vessel quotas as a more effective means of ensuring compliance, and greater efforts to eliminate excess capacity in fleets, e.g. in the recommendation to reduce the size of fleets by as much as 40 per cent for the most threatened species in the North Sea.

114. While there has been broad agreement in the European Community (EEC) on the retention of the TAC/quota system, 50/ it is also recognized that a number of adjustments need to be made, for example, when TACs and quotas are fixed, care must be taken to define more precisely the level of fishing which stocks could sustain and to match quantitative limits more accurately to specific characteristics of certain areas and interaction of biological stocks. Also now recognized is the need to improve technical conservation measures, to intensify enforcement, and reduce existing overcapacity.

Mediterranean

115. In the Mediterranean, regional cooperation is markedly different from other areas of the world, in that very few EEZs have been established; thus restrictions on fishing have to be developed internationally, although the General Fisheries Council for the Mediterranean (GFCM) has not as yet used its powers to recommend conservation and management measures. This situation has been noted particularly with regard to the establishment of protected areas to close off areas to fishing or to restrict the use of certain types of gear, including driftnets. For EEC countries the problem is different, in that protection of areas outside the territorial sea against all fishing vessels requires a decision of the Council of the EEC; and there is some indication of an interest to move in this direction in the proposal being negotiated for a directive on the protection of habitats. Mediterranean environmental issues, including fisheries aspects, is generally receiving increased attention from the European Community and from ECE. Moreover, IOC is considering new efforts in the Mediterranean given its interest in it as a test basin.

North Pacific

116. In the North Pacific, attention has focused on the need to ensure cooperation in marine scientific research, encompassing fishery and marine environmental research, analogous to International Council for the Exploration of the Sea (ICES) for the North Atlantic. The North Pacific Marine Science Organization (PICES) Convention was adopted on 12 December 1990 by Canada, China, Japan, the USSR and the United States. The area covered by the new organization is defined as the temperate and subarctic region of the North Pacific Ocean and its adjacent seas, especially northward of 30 degrees north latitude. Its article XII specifies that nothing in the Convention nor activities of the organization pursuant to it affects the sovereignty, sovereign rights and jurisdiction of a Party over its territorial sea, 200-mile zone, or continental shelf. The Convention is open to additional countries. Efforts are also under way to negotiate a new convention to control high seas capture of anadromous species, to replace INPFC (International North Pacific Fisheries Commission), and encompass the USSR, as well as Canada, Japan and the United States. Negotiations also have begun on the management of fishing activities in the central Bering Sea (high-seas "donut hole") involving Korea, Japan, Poland, China, and also the USSR and the United States as coastal States.

Atlantic Ocean

117. In Africa, cooperation among coastal States has been dramatically broadened by the adoption on 5 July of a Convention on Fisheries Cooperation among African States bordering the Atlantic Ocean (22 States, from Morocco to Namibia), at the second session of the Ministerial Conference of these States. 51/

118. This Convention is comprehensive, embracing marine scientific research and environmental protection aspects also, and the developmental as well as assessment, management and conservation requirements of fisheries. It contemplates not only harmonization of policies but a substantial measure of joint or coordinated action. The Convention is also outward-looking in that it calls for coordinated action by members on highly migratory species, within the context of the appropriate international organizations, and generally calls for information exchanges and consultations in order to harmonize positions in international fisheries conferences, and to benefit from each other's experiences with agreements with third parties.

119. Heavily underscored by the Ministerial Conference was the urgent need to provide a lasting framework for regional cooperation on monitoring, control and surveillance, and to obtain international cooperation, including financial assistance, to combat all forms of illegal fishing. The Commission on Fisheries composed of Cape Verde, the Gambia. Guinea, Guinea-Bissau, Mauritania and Senegal has made such requests with respect to establishing a register of vessels in that subregion. 52/

South Atlantic

120. In the South Atlantic, a new bilateral South Atlantic Fisheries Commission has been formed by Argentina and the United Kingdom (November 1990). Their agreement establishes a Falkland Outer Conservation Zone (a 150-mile zone), and imposes a temporary total ban on commercial fishing for ships of any flag between latitudes 45 and 60 (a 200-mile zone). Considerable concern had been voiced at the unregulated and irresponsible fishing outside the 150-mile limit, particularly regarding illex squid stocks. Both States will furnish information on the operations of fishing fleets, appropriate catch and effort statistics and analyses of the stocks of the most significant species. The Commission is to assess information received and recommend conservation measures, propose joint scientific research work, and recommend also, in accordance with international law, possible actions for the conservation in international waters of migratory and straddling stocks and species related to them. The Joint Statement declares that nothing in the conduct or content of the present meeting or similar subsequent meetings should be interpreted as a change in the position of either party with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas.

Caribbean

121. In the Caribbean, there has been a dual emphasis on wider cooperation as well as subregional cooperation. There has been a steadily increasing emphasis on the need to harmonize management measures, analogous to the South Pacific and now also Atlantic Africa, but with one major difference. The geography of the region, and the extent to which resources are biologically and economically shared, has produced a marked trend towards the development of the "shared-stock" concept. Given also the notable increase in fishing effort directed at large migratory pelagic species, there is now a strong interest in formulating cooperative management plans, the first step being to exchange the scientific information and data needed. 53/

122. There is additional evidence of expanded cooperation on research into shared stocks in the region. Trinidad and Tobago has signed a research protocol on fishery resources with Venezuela; and there has been strong interest in developing joint research on shrimp and lobster resources among Central American countries (from Mexico to Panama), analogous to the working group on Guyana-Brazil shelf shrimp.

3. Cooperation on highly migratory species

Mediterranean

123. In the Mediterranean, the convening of the first joint expert meeting between GFCM and the International Commission for the Conservation of Atlantic Tunas (ICCAT) in June 1990 was regarded as an important development. It served particularly to highlight the problems that can arise for stock-assessment capability and consequently for management, when some countries are not members of the relevant organization (ICCAT) and where insufficient coordination mechanisms are in place. 54/

124. ICCAT has recommended regulatory measures for the conservation of Atlantic swordfish with effect from July 1991, no objection having been entered. They call for a 15-per-cent reduction in the catch from the North Atlantic in an attempt to bring it back to where it was in 1988; and a prohibition, oceanwide, on taking fish smaller than the specified size, any incidental catch below legal size being limited to no more than 15 per cent of the number caught. To be noted is that ICCAT has specifically indicated that Parties taking relatively small catches should also abide by these measures and that non-ICCAT members should be informed of the new regulations, so that they may cooperate by taking similar conservation measures.

Indian Ocean

125. A new Western Indian Ocean Tuna Organization was formed by the Seychelles Convention in June 1991 to which only coastal States can accede. Activities of the Association Thonière, with support from the European Community, also involve a number of States of the region. Indian Ocean Marine Affairs Cooperation (IOMAC), which also has a general interest in questions of fisheries development and management, has stressed the need to avoid duplication and to promote cost-effective regional coordination in tuna management. It is thus attempting, on an urgent basis, to review all the various initiatives, agreements and programmes on tuna development and management so that members may have a better picture of the comparative advantages of the various institutional arrangements for tuna research, management and development in the region. Anticipated developments in the marine science sector will in turn benefit fisheries cooperation, and IOMAC can be expected to give high priority to this area. It may be noted that IOC is also considering whether a single subcommission for the entire Indian Ocean may be preferable, for logistic and scientific reasons.

South Pacific

126. In the South Pacific, the Tuna Agreement between the United States and the island States is now in its fourth year of operation; in its first three years, island nations received payments of over $49 million, and over 40 United States vessels operate in the region. The United States and France signed an agreement in March 1991 which would allow United States vessels to begin fishing in the EEZ of New Caledonia and Wallis and Futuna Islands. It

should be noted that the United States now claims sovereign jurisdiction over tuna and all other highly migratory species found within the EEZ of the United States, effective January 1992, and recognizes similar claims by coastal States, effective November 1990. Monitoring and control in the region is expected to benefit from the Forum Fisheries Agency (FFA) new direct satellite communication through the International Maritime Satellite Organization (INMARSAT) and PEACESAT with its members. Also, the United States Western Pacific Regional Fisheries Management Council is testing various vessel tracking systems in anticipation of the requirement that all longline vessels operation in the Council's zone carry transponders.

4. High-seas fisheries and straddling stocks

127. Twenty years ago the rough estimate of catch taken beyond the continental margin was between 1 to 5 per cent of the total marine catch. It is presumably far higher than that today, particularly given the considerable expansion into certain high-seas regions: in the North Pacific for squid and salmon; in the central Bering Sea for Alaska pollack; in the Central and South Pacific and Indian Ocean for albacore; in the South-East Pacific for jack mackerel; and in the Southern Ocean for krill and Antarctic cod.

128. Most high-seas resources have a life cycle phase in the EEZ. Existing fisheries bodies (except for tuna and whales) also cover coastal areas, and have traditionally concentrated their efforts there. Most operate by consensus and have no binding authority with respect to management and conservation measures; those that have the power to recommend measures have seldom done so. Most either do not have the leverage to apply economic pressures to achieve conservation goals or the ability to gather and analyse the basic data needed to identify conservation needs. Most if not all have repeatedly set TAC/quotas higher than the scientifically based level that was recommended. Organizations which do specifically cover exploitation of high-seas and transboundary stocks resources face additional monitoring and control problems, and particular problems with data collection and stock assessment, a task which involves not only oceanic stocks but also EEZ/high-seas interactions. The problems, as has been seen, extend to that of obtaining unbiased data on by-catch. In the case of NAFO, problems have been exacerbated to the extent of vessel reflagging allowed to non-member States to escape controls; questions are also being raised as to the efficacy of agreements where there are new entrants, without a prior history of fishing in a region, which do not become members of the organization in question.

129. There is need for better knowledge of high-seas resources concentrating on stock structures (populations and natural management areas), migrations (routes and rates), reproduction (life cycles, reproduction strategies, stock-recruitment relationships), bio-economic interactions, allocation issues, high-seas fleet strategies (distribution by area and season) and fleet dynamics. An international programme of work needs to be drawn up, and the FAO expert consultations planned to begin in 1992 can be expected to take up these questions. FAO/COFI and the Council have agreed that the question of

rational management of high-seas living resources warrants close consideration by FAO, in cooperation with UN/OALOS. Expert consultations will be held on this matter and will be followed up by an intergovernmental meeting.

130. The elaboration of the law of the sea regime for the rational management and conservation of high-seas living resources is now firmly inscribed on the international agenda. While this may be in large part attributable to the large-scale driftnet fishing issue, it is to be emphasized that this issue is but one symptom of the larger problems confronting world fisheries, within national jurisdiction and beyond. Another symptom is the reports of problems of overfishing by distant water fleets in the proximity of EEZs. So far they have come from the north-east Atlantic, the Bering Sea, the south-east Pacific and the south-east Atlantic, but the real scope and extent of the problem is not yet known. South-east Pacific and Eastern Caribbean States, for example, have urged the international community to carry out joint scientific, technical and economic studies, with a view to taking appropriate measures and establishing mechanisms for conservation and optimum use of living resources found beyond 200 miles where the same stocks or species occur in national maritime zones. This would require, inter alia, that high-seas operators provide reliable fishing statistics to be used in the management of resources by coastal States which conduct fishing activities on the same populations or populations of associated species.

131. Examination of the legal regime applying to the high-seas fisheries has been initiated in Expert Consultations, convened by UN/OALOS, which were held in July 1991. The report will be published shortly. It has been concluded that proper implementation of the Convention on the Law of the Sea provisions requires a clear understanding of the specific rights and duties of States claiming a right to engage in high-seas fisheries, beginning with the recognition that the right to fish is subject to obligations to conserve and manage the resources in question, and also to the obligation to recognize the rights, duties and interests of coastal States in those cases where resources are straddling stocks or highly migratory species. The Convention specifies the respective rights of States in both those cases, thus providing a basis for resolving conflicting interests. It is to be noted that whenever claims to exploitation conflict with obligations of conservation and management, the Convention opts for the latter, both for the high-seas and EEZ regimes.

132. It has also been concluded that future developments must encompass not only legal, but also institutional and policy aspects: recommended standards for management must be continuously developed and specific management regimes adopted within subregional and regional fisheries organizations. Management regimes, it is emphasized, must be based on scientific assessment of stocks, determination of allowable catches and allocation of quotas, or other management measures as appropriate, as well as on international and domestic monitoring and enforcement mechanisms. The need for catch statistics and other data, as listed above, will require various actions by States and organizations.

133. To facilitate general agreement on the legal, institutional and policy requirements for better implementation of the Convention's high-seas regime, the recent expert consultation has suggested certain guidelines.

5. Marine mammals

134. At its May annual meeting, the International Whaling Commission (IWC) decided to postpone its review of the moratorium on commercial whaling because of the need for further study of the methods that would be used in implementing a new resource-management procedure. Proposals by Japan, Iceland and Norway to adopt the new procedure for 1992, at least for minke whales, was rejected. Also rejected were proposals by Iceland and the USSR for catching minke or razorback whales for scientific research purposes. Iceland has threatened to withdraw from IWC.

135. Besides questions pertaining to the present moratorium on commercial whaling at IWC and also issues surrounding the system of scientific research permits, other developments focus primarily on small cetaceans. In October 1990, the Netherlands, Germany and Denmark concluded an Agreement on the Conservation of Seals in the Wadden Sea, the first such agreement to be done under the 1979 Bonn Convention on the Conservation of Migratory Species of Wild Animals. Its provisions concern the coordination of research and monitoring, prohibition on taking of seals with an exception for scientific research, habitat protection, pollution prevention. Actual protective measures are deferred to the Conservation and Management Plan which has yet to be established in accordance with the Bonn Convention (article IV). The 1990 Memorandum of Understanding on Small Cetaceans in the North Sea is to be followed up by an agreement for the conservation of the North Sea and Baltic Sea species, also falling under the 1979 Bonn Convention.

D. Policy developments with respect to marine scientific research

136. Oceanography is about to enter a new era of systematic observation of the oceans, highlighting the need for strong support for cooperative arrangements undertaken or endorsed by international organizations, for new approaches to funding of research, and for national policy-making and infrastructural development. The extent of the cooperation required to gain a much broader knowledge of ocean systems and processes and of the significance of human impacts on the marine environment has brought new attention to bear on the rights and duties of States with respect to marine scientific research, contained in Part XIII of the Convention.

137. Climate studies in particular require a far greater understanding of the world ocean system than is at present the case. Present efforts must necessarily focus on global-scale studies, the aim being to monitor key aspects of ocean variability, rather than produce a uniform data coverage. The present focus is thus on the North Atlantic, Southern Ocean, Arctic Ocean

and the tropical oceans, especially in relation to El Niño and monsoons. As these global studies progressively yield clues to regional and subregional variations in response to climate change, consequent adjustments will need to be made in the focus of activity. The coordination of the scientific definition of pertinent problems and goals and development of investigative programmes is an international responsibility, while management of the conduct of research will necessarily be largely a national responsibility. Participating nations are expected to develop their own scientific contributions consistent with their capabilities and interests, and considering that sophisticated technology is not always necessary, e.g. for sea-level stations, expendable bathy-thermograph measurements and drifting buoy deployment, IOC has in fact stressed that an effective way of decentralizing highly complex coordinating functions would be to select members to function as lead States for specific activities, as often suggested by regional bodies.

138. As large-scale research progresses towards a concentration on specific issues and areas, the process could become unnecessarily politicized unless there is strict application of the Convention's consent regime, full awareness of the need to avoid conflicts over access, and a continuing commitment to promote and support research based on scientific priorities established by the international community. Studies of global ocean circulation are important for more than climate issues; they can also be expected to yield results on biological processes, with implications in the future for fisheries, ocean dumping and other issues, and thus for further potential politicization of research. It will be highly important therefore to foster and maintain close associations between scientific organizations at all levels and to support scientific consensus as to special areas of focus.

139. New emphasis is being placed on the importance of article 247 of the Convention in relation to the practical implementation of the Convention's consent regime; the provision accords special status to scientific research projects undertaken by or under the auspices of an international organization in that the organization concerned is not required to apply for consent from a State member of the organization which has not expressed any objection to the project or has an agreement with that organization. The Guide to the relevant provisions of the United Nations Convention on the Law of the Sea concerning marine scientific research, 55/ prepared under the auspices of UN/OALOS and IOC in 1990, proposes a standard form for seeking consent to conduct marine scientific research in areas under national jurisdiction. It notes that it would be advisable for international organizations also to use a similar form for the purpose of notifying the coastal State concerned of the project.

140. At present, the three main international ocean programmes focused on climate questions are World Ocean Circulation Experiment (WOCE), Tropical Oceans and Global Atmosphere (TOGA) and Global Ocean Flux Studies (GOFS). For both WOCE and TOGA, reliable access is imperative to gain temperature and current data over the broadest spatial and temporal scales; for GOFS, access to shelf areas to obtain sediment cores is essential; and all need to make in situ hydrographic observations to establish surface truth for satellite

observations. WOCE is particularly reliant on being able to observe large areas within as short a time as possible to get near-simultaneous data sets of circulation features, and to return to areas in order to get a complete series of repeat measurements. Thus, the coastal States concerned are asked to bear these requirements in mind so that delays in gaining consent or carrying out work do not jeopardize the value of data sets.

141. Marine scientific research generally, and particularly climate-related research, will rely increasingly on the use of autonomous measuring equipment: moored units for localized velocity, subsurface floaters for currents, surface drifters for velocity and for relating surface parameters to satellite measurements. Arrays of moored instruments are planned for all the oceans, and variously linked to hydrographic observations, process experiments or other measurements; and all types of floaters and drifters are planned (approximately 6,000 in all) according to their applicability and cost-effectiveness. The objective is to monitor ocean circulation simultaneously and continuously over great spatial and temporal scales. The Drifting Buoy Cooperation Panel of IOC/WMO is currently addressing issues of data transmission. Thus, coastal States are asked to bear in mind not only the need for access of the equipment itself but access for ships deploying and retrieving autonomous equipment. Reaccess to measuring devices will also be essential. Since ship effort may not be sufficient to deploy the numbers of instruments contemplated, aircraft may need to be used also.

142. Work on the legal aspects of Ocean Data Acquisition Systems (ODAS) has been considerably advanced through preparation of a draft convention by IOC to provide a basis for further expert work to be organized by IOC, WMO and UN/OALOS, as members of ICSPRO. Governmental consideration of the results will presumably be greatly influenced by new perceptions as to the requirements of the various existing and projected ocean-observing systems.

143. The IOC Assembly has proposed the establishment of a Global Ocean Observing System, building on a number of existing cooperative programmes. In fact it is not a new concept, but rather a revised response to new demands and new opportunities, particularly as represented by major technological improvements. A systems design and developmental strategy has been prepared, to encompass not only climate studies but also research on living marine resources and coastal ocean pollution, and the provision of ocean services. The Assembly has stressed the importance of an integrated approach that would ensure that activities under different programmes and in different regions and on specific phenomena are fully considered and coordinated synergistically. A statement has also been adopted on the importance of recognizing ocean observations and research in the framework convention on climate change. 56/ A further statement on oceans and climate was adopted at a special meeting, convened by the Government of Malta in July, and a draft article which could be considered for inclusion in the new convention. It calls for States to cooperate, directly or through competent international organizations (such as IOC and WMO), for the purpose of promoting studies, undertaking programmes of

scientific research and systematic observations and encouraging the exchange of information and data required with respect to the role of the oceans in climate change. States are also asked to endeavour to participate actively in regional and global programmes designed to acquire such knowledge. Section 2 of Part XIII of the Law of the Sea Convention establishes certain obligations of international cooperation in marine scientific research, including cooperation between States and international organizations to create favourable conditions for the conduct of research in the marine environment and to integrate the efforts of scientists in studying the essence of phenomena and processes occurring in the marine environment and the interrelations between them (articles 242 to 244). Other provisions concern international cooperation on studies, research programmes and exchange of data concerning pollution of the marine environment, and monitoring and environmental assessment (articles 200 and 204).

144. Data and information management and exchange is now considered one of the pre-eminent challenges in global change research, so that the need for a clear intergovernmental policy, particularly among the main researching States, is now recognized. The IOC Assembly has stressed the importance of free, open and timely exchange of data and information, and of having research products likewise made freely available to all participants. Suggested policy elements include: continuing commitment to the establishment, maintenance, validation, accessibility and distribution of high quality, long-term data sets; full and open sharing of the full suite of global data sets for researchers world wide; preservation of all data needed for long-term global change research and designation of data archives; establishment of criteria and procedures for setting priorities for data acquisition; and provision of data to researchers at the lowest possible cost. Greatly expanded international cooperation is also urged with respect to ensuring the widest possible access to quality-controlled data and access to geographic areas to obtain the data.

V. THE PREPARATORY COMMISSION FOR THE INTERNATIONAL SEABED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

145. The Preparatory Commission met twice during 1991: it held its ninth session at Kingston from 25 February to 22 March 1991, and a summer meeting in New York from 12 to 30 August 1991. It decided to hold its tenth session at Kingston from 24 February to 13 March 1992. In accordance with General Assembly resolution 37/66 of 3 December 1982, provision has been made in the programme budget (1992-1993) for servicing the meetings of the Preparatory Commission to be held at Kingston and New York in 1992 and 1993.

A. Plenary 60/

1. Implementation of resolution II of the Third United Nations Conference on the Law of the Sea

146. The Preparatory Commission approved two applications for registration as pioneer investors in 1991. The first application was submitted by China for registration of the China Ocean Mineral Resources Research and Development Association (COMRA) as a pioneer investor, and was approved by the General Committee on the basis of the report of the Group of Technical Experts on 5 March 1991. 61/ The areas which have been reserved for the Authority and allocated to the pioneer investor are situated in the Clarion-Clipperton Zone of the North Pacific. The second application was submitted by Bulgaria, Cuba, the Czech and Slovak Federal Republic, Poland and the USSR for registration of the Interoceanmetal Joint Organization (IOM) as a pioneer investor, and was approved by the General Committee on the basis of the report of the Group of Technical Experts on 21 August 1991. 62/ The areas which have been reserved for the Authority and allocated to the pioneer investor are situated in the North-East Pacific.

147. The Preparatory Commission, as the General Committee had recommended, decided to include Cuba in the list of States having the right to apply as pioneer investors in accordance with resolution II for one pioneer area until the Convention on the Law of the Sea enters into force.

148. It will be recalled that the Preparatory Commission had already in 1987 registered as pioneer investors the Institut français de recherche pour l'exploitation de la mer (IFREMER), the Government of India, Deep Ocean Resources Development Co., Ltd. (DORD) and Yuzhmorgeologiya, whose applications were submitted by the Governments of France, India, Japan and the USSR, respectively.

149. The Chairman of the Preparatory Commission continued his informal consultations on the implementation of the obligations of the registered pioneer investor COMRA. Although the consultations on implementation of the obligations of COMRA have been completed, it became apparent that more time would be needed to enable the General Committee to adopt the understanding, inasmuch as the matter of similar treatment for future applicants was still pending.

150. The Chairman informed the General Committee that it was his intention to convene meetings of the General Committee to monitor implementation of the obligations of the registered pioneer investors.

151. With respect to the implementation of the obligations of the first group of registered pioneer investors, i.e., France, India, Japan and the USSR, in accordance with the Understanding on the Fulfilment of Obligations by the Registered Pioneer Investors and their Certifying States which was adopted on

30 August 1990 (LOS/PCN/L.87, annex), the following developments took place during the summer meetings: (i) Training: The Training Panel which was established at the ninth session, commenced its work on the establishment of a training schedule. It decided that traineeships should cover the following priority disciplines: chemical/metallurgical, electrical, electronic, mechanical and mining engineering as well as marine geology, marine geophysics and marine ecology. Following an examination of the training programmes which had been submitted by France, Japan and the USSR, it requested both Japan and the Soviet Union to make adjustments to their programmes. It decided that the commencement date specified in the French training programme would be maintained. At the next session, the Panel will consider the revised training programmes as well as the training programme to be submitted by India, and on the basis of these programmes it will develop specific criteria for the selection of candidates and standard forms for applications.
(ii) Exploration: The preparatory work for the exploration of one mine site in the areas reserved for the Authority has been completed by France, Japan and the Soviet Union and a joint report marked "Preparatory Work in the International Authority Reserved Area - August 1991" has been transmitted to the Special Representative of the Secretary-General for the Law of the Sea, the Under-Secretary-General for Ocean Affairs and the Law of the Sea, for submission to the Preparatory Commission. The Commission decided that the details of the data and information contained in that report will be presented for review and evaluation to a group of technical experts.

2. The preparation of draft agreements, rules, regulations and procedures for the International Seabed Authority

152. The Plenary completed its second reading of the draft Agreement concerning the Relationship between the United Nations and the Authority and provisionally approved a number of its provisions. It was decided to delete three articles concerning relations with specialized agencies, administrative cooperation and cooperation among regional branches, centres and offices. Discussion on those articles, or parts thereof, on which no agreement could be reached will be continued at the level of informal consultations. As far as the articles on personnel arrangements, budgetary and financial matters and financing of special services are concerned, it was decided to defer their consideration until after the discussion of the paper on administrative arrangements, structure and financial implications of the Authority.

153. The Plenary began its consideration of the above-mentioned paper at the summer meeting. Focusing its attention on matters such as financial guidelines; functions of the Authority during the initial period; staffing requirements etc., the Plenary agreed that the structure of the Authority should ensure efficiency and cost-effectiveness and that it should be no larger or smaller than required in order to guarantee the adquate performance of its functions at a particular stage of its activities; that an evolutionary approach should be provided for; and that the nature and level of the staff would depend on the activities to be performed by the Authority. Further discussions on the paper were continued at the level of consultations.

154. Informal consultations also continued on matters relating to the Finance Committee.

155. At the next session the Plenary will finalize the text of the relationship agreement at the level of informal consultations; continue its consideration of administrative arrangements, structure and financial implications of the Authority; discuss the pending articles of the draft Protocol on the Privileges and Immunities of the Authority as well as one pending article of the draft Agreement between the Authority and the Government of Jamaica regarding the Headquarters of the Authority; and continue its informal consultations on the Finance Committee and the so-called "hard-core" issues.

B. Special Commission 1 63/

156. Special Commission 1 studies problems that would be encountered by developing land-based producer States as a result of the production of minerals from the deep seabed.

157. It continued its consideration of the provisional conclusions of its deliberations which can form the basis of its recommendations to the Authority on how best to minimize the difficulties of land-based producer States. A negotiating group was established to facilitate the negotiations and suggest compromise solutions. This Group has made considerable progress in its solution-seeking efforts and will continue its work at the next session.

158. The Ad Hoc Working Group which is entrusted with the task of dealing with certain hard-core issues concentrated most of its work on efforts to resolve one of the issues, namely, criteria for the identification of land-based producer States actually or likely to be affected by deep-seabed production. These efforts, which seemed to be leading to successful outcomes, will be taken up at the next session, as well as other issues. Since the issues dealt with in the Working Group are interrelated with many of the provisional conclusions under consideration in the Negotiating Group, efforts will be made, at the next session, for finding an effective way of integrating the outcome of the work of the Ad Hoc Group with that of the Negotiating Group.

159. Following a review of international commodity agreements or arrangements to assess the potentials of such measures for minimizing the difficulties which might be encountered by developing land-based producer States as a result of seabed production and for helping these States to make the necessary economic adjustment, Special Commission 1/ agreed in general that the Commission, and in the future, the Authority might benefit most by keeping abreast with the developments with regard to international commodity agreements or arrangements and in due time making further assessments in the context of their own objectives as to the feasibility and effectiveness of such agreements or arrangements.

160. At the next session, Special Commission 1 will study the projection of the future supply-demand-price of copper, nickel, cobalt and manganese. It will also consider the issue of the effects of subsidized seabed mining, which it had postponed pending the outcomes of the Uruguay Round of Negotiations under the auspices of the General Agreement on Tariffs and Trade (GATT).

C. Special Commission 2 64/

161. Special Commission 2 is mandated to prepare for the early entry into effective operation of the Enterprise - the operational arm of the Authority.

162. It has reached agreement on the purpose and functions of the transitional arrangements for the Enterprise. With regard to the status and structure of the institutional arrangement, consultations within the Commission resulted in three possible options. Consultations are continuing between the two major interest groups on the recommendation of a single option.

163. Special Commission 2 concluded its final reading of the working paper on the structure and organization of the Enterprise, concentrating on the identification of those provisions of the Convention which called for annotations of various kinds. It will make its final recommendation on the subject at the next session.

164. With respect to operational options, there seems to be general acceptance, at the current stage, of the joint venture option as the preferred option for the Enterprise in its initial operations. The Commission will continue its consideration of a model joint venture contract at the next session with a view to annotating some of its provisions. Other operational options will be considered within the context of the suggestions of the Chairman's Advisory Group on Assumptions.

165. The Chairman's Advisory Group on Assumptions continued to review the current market developments in respect of nickel, copper, cobalt and manganese. It also continued its examination of a paper which had compared the main parameters of the Australian study on the economic viability of deep-seabed mining with those contained in the study done by French experts from IFREMER.

166. At the next session, Special Commission 2 will take up the question of the harmonization and coordination of activities with respect to exploration and training prior to the entry into force of the Convention and in the period before seabed mining is about to begin. It will also finalize its recommendations to the plenary on transitional arrangements and annotations and continue its discussions on the operational options available to the Enterprise.

D. Special Commission 3 65/

167. Special Commission 3 prepares rules, regulations and procedures for the exploration and exploitation of the deep seabed.

168. It completed its first reading of part VIII of the draft regulations on prospecting, exploration and exploitation of polymetallic nodules in the area, dealing with the protection and preservation of the marine environment from activities in the Area. It also concluded consideration of draft regulations on accommodation of activities in the Area and in the marine environment. These rules which were based on guidelines adopted by the International Maritime Organization (IMO) on the removal of offshore installations and structures were adapted by the Commission for application to future deep-seabed mining activities and a new revised text was produced.

169. During the summer meetings, Special Commission 3 completed its first reading of a working paper containing draft regulations on accounting principles and procedures, relating to the financial terms of contracts between the Authority and its contractors. It agreed in general that it would be necessary to ensure, through these regulations, that the Authority gained the financial benefits to which it was entitled under the relevant provisions of the Convention. A revision of the paper will be undertaken at the next session.

170. The Commission decided that, at the next session, it would conclude its consideration of accounting principles and procedures and would take up new working papers on inspection and supervision of activities in the Area and on labour matters.

E. Special Commission 4 66/

171. Special Commission 4 prepares recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea.

172. It continued its consideration of administrative arrangements, structure and financial implications of the Tribunal, and examined a scheme to phase in the establishment of the Tribunal to serve during the initial stages of its existence. Consultations were held on the number of languages to be used by the Tribunal, on the number of Members of the Tribunal that would be required to be available at the seat of the Tribunal on a regular basis and on the structure of the registry and staffing requirements. These matters will be taken up again at the next session.

173. The Commission undertook an article-by-article reading of the revised draft Protocol on the Privileges and Immunities of the Tribunal. While a considerable number of the provisions were approved, some still require

further consultation. The Commission intends to conclude its review of the draft at the next session.

174. With regard to the revised draft Headquarters agreement between the Tribunal and Germany, the Commission in its review of the document, approved, with some exceptions, articles 1 to 19. At the next session, it plans to complete its review of the other articles.

175. Informal consultations were continued on matters relating to the seat of the Tribunal with a view to reconciling divergent opinions concerning the approach to be taken to the requirements listed in the introductory note to the revision of the official draft Convention (A/CONF.62/L.78).

176. In addition to the issues referred to above, the Commission will, at the next session, also consider elements of supplementary arrangements between the Tribunal and the International Court of Justice; other issues related to the seat of the Tribunal; initial financing of the Tribunal; relationship arrangements between the United Nations and the Tribunal; principles governing the relationship agreement between the Tribunal and the Authority; and issues relating to the draft report containing recommendations for submission to the Meeting of States Parties regarding practical arrangements for the establishment of the Tribunal.

PART TWO

ACTIVITIES OF THE OFFICE FOR OCEAN AFFAIRS AND THE LAW OF THE SEA

I. INTRODUCTION

177. By its resolution 45/253 of 21 December 1990, the General Assembly adopted a new Medium-Term Plan for the Period 1992-1997. 67/ Within that Plan, Programme 10: Law of the Sea and Ocean Affairs, provides a new subprogramme structure of activities for implementation by the Office for Ocean Affairs and the Law of the Sea which covers - within a coherent framework - the legal, political, economic, environmental, scientific and technical aspects of the Convention on the Law of the Sea and the implications of its implementation by States in terms of needs and opportunities. As requested by the General Assembly in paragraph 9 of its resolution 44/26, the plan takes into account the prospective entry into force of the Convention and the increased needs of States for assistance in implementation of the Convention. It also addresses the additional responsibilities of the Secretary-General upon entry into force of the Convention, the servicing of the intergovernmental bodies to be convened, including the Commission on the Limits of the Continental Shelf, and the functions flowing from the relationship to be established with the International Seabed Authority and with the International Tribunal for the Law of the Sea.

178. Adoption of the 1992-1997 Plan culminates a process initiated by the General Assembly eight years ago when, by its resolution 38/227 of 20 December 1983, it adopted a major programme that included within a single chapter of the medium-term plan, the activities of the United Nations in marine affairs. This important step in linking the diverse activities of the United Nations in this field was followed by the organizational and programmatic consolidation of marine affairs activities at the United Nations in the Office for Ocean Affairs and the Law of the Sea. That Office has submitted its proposed programme budget for 1992-1993 - the first to be formulated within the framework of the 1992-1997 medium-term plan - to the General Assembly at its current session for approval.

179. In 1991, the activities identified in the report of the Secretary-General on Law of the Sea for 1990 (A/45/721, paras. 173-175) have been continued, with the provision of information, advice and assistance primarily to States and also to global and regional bodies of the United Nations system and to other regional and subregional organizations and to academic institutions, scholars and other users. Measures have continued to be taken to facilitate a better understanding by States of the Convention, to assist States in ratifying or acceding to it and to promote the wider acceptance and implementation of its provisions, including the matter of establishing national legislative frameworks in conformity with the Convention, that would secure for them the extended maritime areas of sovereignty and national jurisdiction under the new legal regime and assist them in exercising their

rights and fulfilling their obligations under the Convention, so that they may harness the benefits therefrom.

180. To this end, the programme has continued to prepare studies and analyses for publication relating to specific technical issues arising from the Convention and to provide methodological approaches and formulate guidelines for integrated ocean management, marine policy-making and programme development. In addition, services have been provided to intergovernmental entities in preparing for the entry into force of the Convention and for the commencement of the functioning of the two international organizations established by the Convention, namely, the International Seabed Authority and the International Tribunal for the Law of the Sea.

181. The General Assembly has annually reviewed the implementation of the mandates, and has reiterated and supplemented them, based on annual reports of the Secretary-General to the Assembly, presented at its request.

182. In support of its activities, the Office continues to monitor and analyse developments related to the new ocean regime at the global, regional, subregional and national levels. These functions require continuing research and data and information collection and evaluation, which are supported, among other means, by the convening of groups of technical experts on specialized subjects and by developing the Office's reference library and its Law of the Sea Information System.

183. As the focal point for marine affairs within the United Nations, the Office also has continued to participate in and support inter-agency programmes and activities, as well as inter-agency coordination activities and mechanisms, with a view to promoting cooperation in areas of common interest and a consistent approach towards the new regime for the oceans.

184. In summary, as the 1990-1991 biennium comes to a close, the programme on Ocean Affairs and the Law of the Sea is, as stated in the medium-term plan for 1992-1997, "poised to advance the work of the organization in responding to the needs of Member States ..." in dealing with all aspects of the law of the sea and marine affairs (para. 10.6).

II. SERVICING THE PREPARATORY COMMISSION

185. In 1991, in addition to a number of meetings of the subsidiary organs, there were 100 meetings of the main organs of the Preparatory Commission, which included 7 formal meetings of the Plenary, 14 meetings of the Plenary as a Working Group on the organs of the International Seabed Authority, and between 15 and 21 meetings for each of the four Special Commissions.

186. The secretariat continued to prepare studies and working papers on several issues before the Preparatory Commission. The working papers and studies included: a revised draft agreement concerning the relationship between the United Nations and the International Seabed Authority; a revised

paper on the Finance Committee; international commodity agreements or arrangements; criteria for the identification of land-based producer States actually or likely to be affected by seabed production; draft regulations on the Accommodation of Activities in the Area and in the Marine Environment and on Accounting Principles; a revised draft protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea; and issues concerning the initial financing and budget of the International Tribunal for the Law of the Sea.

III. ADVICE AND ASSISTANCE

A. Direct assistance to Governments and intergovernmental organizations

187. The needs of States and intergovernmental organizations for assistance, direct or otherwise, for developing and managing their ocean resources are well documented in the report submitted by the Secretary-General to the General Assembly at its forty-fifth session in 1990 68/ under its item on law of the sea. These needs, identified on the basis of information provided by Governments, intergovernmental organizations and organizations of the United Nations system, at the request of the Secretariat, are comprehensive and diverse. As the above-cited report notes "... although the Convention confers rights under which States may explore and exploit ocean resources, these rights have not, in actual fact, been translated into tangible or substantial benefits for most." (para. 12). In this connection, at its forty-fifth session in 1990, the General Assembly expressed concern that "... the developing countries are as yet unable to take effective measures for the full realization of these benefits owing to the lack of resources and of the necessary scientific and technological capabilities" (A/45/145, thirteenth paragraph).

188. The report submitted to the General Assembly at its present session (A/46/722), also based on information provided by States, intergovernmental organizations and organizations of the United Nations system, advances the approach taken in the 1990 report by describing measures currently being taken to meet identified needs and setting forth the scope and types of additional measures that are still required. 69/

189. In 1991, direct assistance provided to States and intergovernmental organizations by the Office for Ocean Affairs and the Law of the Sea included the following activities.

190. The Office continued its long-standing assistance to the Indian Ocean Marine Affairs Cooperation (IOMAC) secretariat. Since 1985, IOMAC, comprising the Asian and African States bordering the Indian Ocean and other States active in the region, has conducted a number of activities such as training programmes and technical workshops of considerable benefit to participating Governments and the region, under the IOMAC Programme initiated by the first Conference in 1985. The 7th meeting of the Standing Committee held in

"Colombo, Sri Lanka, in July 1991, emphasized that the growing dependence on marine resources of a major part of the population of Asia and Africa which borders the Indian Ocean warranted an early response to the needs of these States through a" comprehensive programme of assistance from the United Nations. It also stressed the need for the United Nations to proceed to early implementation of a practical programme of assistance to developing countries for harnessing the marine-resource potential, using dedicated regional institutions such as IOMAC as the means of delivery for any future global and regional programmes of assistance. The meeting was attended by 28 States and 12 international organizations, including UN/OALOS.

191. In relation to the Zone of Peace and Cooperation of the South Atlantic, the General Assembly, at its forty-fifth regular session, took note of the report of the Secretary-General on this subject (A/45/653) and the discussions it held on this agenda item, and on 27 November 1990 adopted resolution 45/36 in which it again "welcomes with appreciation the assistance that the Office for Ocean Affairs and the Law of the Sea of the Secretariat and the United Nations Development Programme have extended towards the convening by the States of the zone of a seminar of a group of experts held at Brazzaville, from 12 to 15 June 1990 ... and looks forward to the convening of the second seminar on the subject in Uruguay in 1991, particularly with a view of its indication of specific areas for co-operation by the States of the zone, on all common marine programmes" (para. 7).

192. In accordance with the programme agreed upon, the 2nd meeting of the Group of Experts of the States Members of the Zone of Peace and Cooperation of the South Atlantic was held in Montevideo, Uruguay, from 3 to 6 April 1991, with designated experts attending from 17 African and Latin American States of the South Atlantic. Representatives of the Economic Commission for Africa and of the Economic Commission for Latin America and the Caribbean as well as representatives of IOC and UNEP also attended the meeting.

193. Discussions focused on 4 areas of cooperation, namely: marine legislation; policy and planning; ocean-resource development and marine science and technology; protection and preservation of the marine environment; and development of skills and capabilities in the marine sector. The recommendations of the Experts were taken into account in the preparation of, and are reflected in, the report of the Secretary-General referred to in paragraph 191 above.

194. The Permanent Commission of the South Pacific (CPPS) organized and convened, with the co-sponsorship of OALOS, the Organization of American States (OAS) and ECLAC, a meeting of Legal Experts on Latin America on the Convention on the Law of the Sea, which was held at ECLAC headquarters in Santiago, Chile, from 13 to 17 May 1991. Seventeen experts, acting in their own capacity, attended the meeting. The purpose of the meeting was to make an assessment of the degree of implementation of the Convention on the Law of the Sea in Latin America and to consider the present possibilities for obtaining universal participation in it. The meeting produced a final report containing the conclusions reached during the debate and the recommendations made. Background papers were provided by OALOS.

195. The Office has continued to support the initiatives taken by the 1989 Ministerial Conference on Fisheries and Cooperation among African States bordering the Atlantic Ocean. A meeting of the follow-up Committee of the Conference, held in Morocco in May 1990, affirmed the continuing need for support by the Office. In 1991, this assistance took the form of a contribution to the preparation of a regional draft Convention on Fisheries Cooperation among African States bordering the Atlantic Ocean.

196. The Second Session of the Ministerial Conference, meeting in Dakar from 4 to 5 July 1991, formally adopted the Convention. At the Conference, 4 States - Morocco, Senegal, Togo and Zaire - signed the Convention and 14 States signed the Final Act. The Conference also decided to establish its secretariat in Morocco and to convene its third session in 1993.

197. Under a UNDP-funded project, the Government of Côte d'Ivoire in 1991 requested the Office to assist in reviewing its marine policy in order to maximize the benefits of the development of marine resources and uses.

B. Advice, special studies

198. Of particular importance for States when they undertake legislative and policy reviews that are essential steps in the process of ratifying the Convention are specialized advice and assistance related to the law of the sea and ocean affairs. This includes the clarification of various provisions of the Convention as they relate to the rights and duties of States and analyses of the implications of the Convention for individual States, taking account of their geographical situation, legal and political systems, and economic circumstances. The Office has continued to provide such advice and assistance in response to the request of States and intergovernmental and other organizations.

199. Thus, the Office has provided substantive advice and has prepared documents and studies for meetings of governmental, intergovernmental and non-governmental bodies and organizations outside the United Nations system. In 1991, in addition to such meetings mentioned elsewhere in this report, these meetings included: the Annual Conference on Solid Waste Management and Materials Policy, the New York State Legislative Commission (New York); the Conference on "Issues in Amending Part XI of the Law of the Sea Convention", Center for Oceans Law and Policy (Washington, D.C.); the Meeting of the Board of General Commissioners for the Specialized International Exhibition, "Christopher Columbus' Ships and the Sea" 1992 (Genoa, Italy); the International Expert Meeting on Land-based Sources of Marine Pollution, (organized by the Government of Canada for UNCED) (Nova Scotia, Canada); 70/ the North Pacific Scientific Driftnet Review Meeting: Government of Canada (Sidney, British Columbia); the Twenty-Fifth Conference: Law of the Sea Institute (Hawaii), "The Marine Environment and Sustainable Development: Law, Policy and Science" (Malmo, Sweden); the Twentieth Annual Session's Meeting of the Technical Advisory Group of SOPAC and related meetings (Port Vila, Vanuatu); and the Meeting of Pacem in Maribus XIX: International Ocean

Institute (IOI) "Ocean Governance: National, Regional and Global Level" (Lisbon, Portugal).

C. Training and fellowships

200. The activities of the Office in the context of training and fellowships reflects the fact that the Convention provides a comprehensive legal framework.

201. In the field of integrated ocean management and as part of a longstanding cooperative endeavour, the Office has continued to assist the World Maritime University in its on-the-job training efforts by receiving selected groups of students and briefing them on the work of the United Nations in ocean affairs and the law of the sea.

202. Also, the Office has continued its substantive association with the conduct of the annual "Marine Affairs II Seminar: Sea-Use Planning and Management", which was held at the World Maritime University from 20 to 25 October 1991.

203. Once again in 1991, the Department of Public Information of the United Nations Secretariat requested the Office to prepare and conduct an action-oriented seminar and simulation exercise entitled "Environment and Development: the Role of the Oceans". This activity took place at United Nations Headquarters from 25 to 27 June 1991.

204. To facilitate research and study on the law of the sea, its implementation, and related marine affairs, OALOS offers annually the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea. The fellowship provides all facilities, including travel costs and subsistence allowances, at one of the participating institutions, and thereafter, for internship with the Office.

205. This year's annual fellowship award, which is the fifth, was made to Ms. Maria de Lourdes Pina Aguiar, a jurist with the Legal Division of the Ministry of Foreign Affairs of Sao Tome and Principe. She will do her fellowship-in-residence programme at the Graduate Institute of International Studies in Geneva under the supervision of Professor Lucius Caflisch. This will be followed by the usual period of internship with OALOS.

206. The award was made on the basis of the review of candidates by the Advisory Panel, which met on 4 December 1990. The recommendation was conveyed to the Special Representative of the Secretary-General for the Law of the Sea, Mr. Satya N. Nandan, by the Panel's Chairman, Ambassador Andres Aguilar, Permanent Representative of Venezuela to the United Nations.

207. Nominations and applications from numerous applicants in various countries were again received this year, owing to the continued interest in the programme and the publicity given to it. However, prevailing economic factors concerning the Fellowship Trust Fund have not made it possible to

accommodate more than one fellow per year. As the Office continued its efforts to obtain additional funding and to seek assistance from funding programmes, it would welcome contributions to the Trust Fund from Member States, philanthropic institutions, and others. The Office would also appreciate it if countries whose applicants are selected for the reserve list could assist such candidates on a partial basis. The modalities of such assistance could be worked out between such a country and OALOS.

IV. PUBLICATIONS AND MONITORING AND ANALYSIS OF DEVELOPMENTS

A. Legislative history, State practice and technical guides

208. The publication of legislative histories and studies of State practice are viewed by the Office as important instruments in promoting the uniform and consistent application of the Convention on the Law of the Sea. Legislative histories - which are both descriptive and analytical in content - trace the often complex development of provisions of the Convention as they now exist and thus, by providing a better understanding of those provisions, assist States to formulate national legislation that is consistent with the new legal regime and supportive of national policy and objectives in the marine sector. Legislative histories of pollution by dumping; the right of access by land-locked States to and from the sea and freedom of transit; the regime of islands; navigation on the high seas; and archipelagic States have already been published. Work is well advanced in 1991 for the publication in 1991 or 1992 of three further legislative histories - artificial islands and installations; passage through straits used for international navigation; and the exclusive economic zone. Work also commenced on legislative histories of the continental shelf, the conditions for marine scientific research, the common heritage concept, and access to living resources of the exclusive economic zone.

209. Complementing these legislative histories are two other publications. The first, to be published in 1991, is the first volume in an eleven-volume series containing the official documentation of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea at its first session in 1983. The 10 volumes to follow will cover the sessions of the Preparatory Commission through 1990 (second to eighth sessions) and will provide a cumulative index for the entire period.

210. Also under preparation is a compendium of Drafting Committee documents, which will include the official documentation of the Drafting Committee of the Third United Nations Conference on the Law of the Sea, and thus will help to provide an enhanced understanding of the various provisions of the Convention.

211. Publication of studies on State practice are intended to record and analyse what States are doing in the light of provisions of the Convention. Such studies thus assist States in comparing their existing legislation and prospective legislative enactments with the related provisions of the Convention. Studies on State practice also enable States to compare their own

legislative development with that of other States in relation to specific provisions or parts of the Convention, a process that encourages uniformity in approach, while taking account of differences in national circumstances. Previous publications of studies on State practice have covered such subjects as national legislation on the exclusive economic zone; maritime boundary agreements; the continental shelf; marine scientific research; and two special publications on State practice that provide an overview of current developments, including recently adopted treaties - multilateral as well as bilateral - national legislation available to the Office, and communications from States in regard to the new regime for the oceans.

212. In 1990, the Office issued three additional publications on State practice - one dealing with the establishment of straight baselines and including excerpts of national laws, accompanied by maps attached for illustrative purposes; and another comprising a repertory of international agreements relating to Sections 5 and 6 of Part XII of the United Nations Convention on the Law of the Sea, dealing with the protection and preservation of the marine environment and a compilation of Maritime Boundary Agreements covering the period 1942-1969. During the period under review, work had been completed for three further volumes dealing with Maritime Boundary Agreements (1985-1991); national claims to maritime jurisdiction (excerpts of legislation and table of claims to maritime zones); and archipelagic States. Work has also commenced on State practice relating to national legislation for the protection and preservation of the marine environment and on State practice concerning legislation for coastal area management.

213. In view of the fact that some provisions of the Convention are of a highly technical nature, the Office has provided assistance to States in understanding those provisions and in clarifying, as required, their underlying intent and practical implications. Thus far, this has been done through the preparation of handbooks on baselines and on the regime for marine scientific research in areas under national jurisdiction. In each case, the publication took account of the results of groups of experts meetings on the subjects.

214. In 1991, another topic warranting special attention - the regime of high-seas fisheries under the Convention - was examined by an expert meeting convened by the Office. The Office expects to issue a technical publication on this subject, which will take account of the conclusions of the expert meeting.

B. Bulletins, annual reviews, directories and information circulars

215. Further issues of the Law of the Sea Bulletin have been published during the period under review. Numbers 16, 17, 18 and a special issue No. 3 have been distributed.

216. The Bulletin is viewed by States and intergovernmental bodies and academic institutions as a most useful vehicle for keeping abreast of important developments. It allows them to monitor in a timely manner the practice of States. It provides Governments with the most recent legal material relevant to the law of the sea - including, in particular, national legislation, bilateral agreements and multilateral treaties, as well as information on decisions of the International Court of Justice, arbitral tribunals or other dispute-settlement procedures - and periodic updates on the status of the Convention, with tables of ratifications, texts of declarations and objections to declarations or statements made in accordance with articles 287, 298 and 310. Every year, one issue of the Bulletin contains a special chapter devoted to the annual work of the Preparatory Commission (No. 17, April 1990). It presents a report on the work of the bodies of the Commission and when appropriate reproduces the texts of decisions adopted by the Commission and provides the list of documents under consideration; it lists member States, observers and participants. More than 1,500 copies in English, French and Spanish of each issue are circulated to meet a demand that is growing every year.

217. The next two volumes in the series Annual Review of Ocean Affairs: law and policy, main documents, which will be published by the United Nations in 1992, will trace, through the documentation of intergovernmental organizations, the main developments in international law and policy relating to ocean affairs and the law of the sea during the years 1989 and 1990. Former volumes covered the period 1985-1988 and were published by UNIFO Publishers, Ltd.

218. Also, work is near completion for the publication of an annotated directory of international organizations with competence in marine affairs within the context of the Convention on the Law of the Sea.

219. The Office continues circulating periodically current and up-to-date information on national and international developments relating to ocean affairs and the law of the sea to other offices and departments of the Organization concerned with ocean-related activities and those connected with peace and security in relation to the uses of the seas.

C. Law of the Sea Information Systems and Library

1. Law of the Sea Information Systems (LOSIS)

220. The Office has proceeded with the further development of its computerized Law of the Sea Information Systems (LOSIS). These systems are composed of a group of databases, each containing information relating to the different aspects of the law of the sea. These are currently being supplemented by the collection of additional marine-related data (see A/42/688, A/43/718, A/44/650 and A/45/721 for details of the databases). LOSIS continues to be used as a source on information and data within the Office and to respond to requests from other agencies, national Governments and others.

221. Of these databases, the Country Marine Profile Database (MARPRO), has 98 categories of information for more than 240 countries and other entities and has been updated to incorporate recent developments within the United Nations.

222. As reported last year, all currently available references to legislation and regulations have been coded into the National Marine Legislation Database (LEGISLAT), which comprises some 4,000 entries. The continuing next phase is verification and updating these entries with Governments as to accuracy and completeness. Computer files containing relevant extracts of text of the appropriate aforementioned LEGISLAT entries are being entered into the LOSIS computers so as to allow for some retrieval of specified relevant textual items. The Office would urge all Member States to forward, as soon as available, any new marine-related legislation so that it can be included in LEGISLAT.

223. The Minerals Database (MINDAT) presently contains 25 categories of information on copper, nickel, manganese and cobalt, by country and globally covering production, consumption, import and export of the minerals in various forms, for the period 1971-1986. It is being maintained on a timely manner.

224. Updated information, through 1990, has been included in the PRODAUTH database which deals with the production ceiling for seabed-mining provisions of the Convention and is used by the Preparatory Commission in its ongoing analysis of deepsea-minerals prices, production and consumption.

225. The Library Bibliographic Information System (LIBRIS) is now operational while further development continues. This database comprises all holdings of the Law of the Sea Library and is indexed according to several fields including author, title and subject. An additional bibliographic tool soon to be available in the Office is a CD-ROM system for extracting Aquatic Sciences and Fisheries Abstracts (ASFA) citations and abstracts for the period 1982 to present. The system will allow for multi-level searches by author, subject, geographic area and for on-screen review or printout of an entire search or a subset of it.

2. Law of the Sea Library

226. The specialized Law of the Sea Library and reference collection continues to be strengthened by the acquisition of the most recent publications in the field of law of the sea and marine affairs, which includes scientific and technical publications. Since 1990, the services of this reference Library have been expanded by the continued development and updating of a computerized database especially designed to contain all the holdings of the Library.

227. As in the past, this reference Library continues to serve the needs of Member States, Permanent Missions to the United Nations, Secretariat staff and researchers from academic institutions which are interested in all aspects of the Convention on the Law of the Sea and its related field of marine affairs. The Library also provides reference materials for consultation in relation to the implementation of the Office's work programme.

228. The OALOS Office also maintains a law of the sea reference library at Kingston, Jamaica, in order to facilitate the servicing of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea.

3. Select Bibliographies on Ocean Affairs and the Law of the Sea

229. The Law of the Sea Library and reference collection publishes an annual bibliography on law of the sea and marine affairs. The sixth bibliography in this series: The law of the sea: a select bibliography - 1990 was published in 1991 (United Nations publication, Sales No. E.91.V.2). The seventh bibliography (1991) will be published in early 1992.

230. In 1991, a 20-year compilation of bibliographical entries referring to English and French material was published by the Office under the title: The law of the sea: a bibliography on the law of the sea 1968-1988 (United Nations publication, Sales No. E/F.91.V.7). It is expected that another compilation of bibliographic entries for material in German, Italian, Russian and Spanish will also be published.

V. COOPERATION WITHIN THE UNITED NATIONS SYTEM

231. As it has done in the past in its annual resolutions on the Law of the Sea, the General Assembly at its forty-fifth session drew attention to the importance of cooperation among the organs and organizations of the United Nations system by inviting them "to cooperate and lend assistance to States ... in the implementation of the Convention and in the development of a consistent and uniform approach to the legal regime thereunder, as well as in their national, subregional and regional efforts toward the full realization of the benefits therefrom" (A/45/145, para. 12). The General Assembly also requested "the competent international organizations, the United Nations Development Programme, the World Bank and other multilateral funding agencies, in accordance with their respective policies, to intensify financial, technological, organizational and managerial assistance to the developing countries in their efforts to realize the benefits of the comprehensive legal regime established by the Convention and to strengthen cooperation among themselves and with donor States in the provision of such assistance" (ibid., para. 14).

232. Under the above-mentioned resolution and those of previous years, which have emphasized the importance of cooperation with the United Nations system, OALOS has continued its close cooperation with, and assistance to, United Nations agencies and bodies, and other departments of the United Nations. In 1991, specific examples of such cooperation may be cited as follows.

233. In relation to specific joint activities and programmes, the Office has continued its co-sponsorship of and participation in the Joint Group of

Experts on the Scientific Aspects of Marine Pollution (GESAMP) which held its twenty-first session in February 1991 and together with IMO has supported the work of GESAMP Working Group No. 29, which in 1991 completed its assigned task - to develop a comprehensive framework for assessment and regulation of waste disposal in the marine environment. The Office also has continued its co-sponsorship, together with the IOC of UNESCO, of a joint Programme on Ocean Science in Relation to Non-Living Resources (OSNLR) and its co-sponsorship of the joint UN/FAO/IOC Aquatic Sciences and Fisheries Information System (ASFIS). In this latter context, the Office is cooperating with other United Nations organizations to develop measures and activities aimed at improving marine information management within the United Nations system.

234. As an international coordinating input for Aquatic Sciences and Fisheries Abstracts (ASFA), the major informational module of ASFIS, the Office has continued to support development of this inter-agency bibliographical information service. In this connection, it monitors documents and publications relating to the law of the sea and other marine-related activities from which abstracts and bibliographical data are prepared for inclusion in the ASFA computer-searchable database and the corresponding ASFA monthly journals. The Office participated in the twenty-first session of the ASFA Advisory Board, held at Rome, Italy, from 17 to 21 June 1991.

235. The Office has been cooperating with the secretariat for the United Nations Conference on Environment and Development (UNCED) in the preparation, jointly with the relevant agencies and bodies as appropriate, of several background reports and a set of recommendations for action on the topic of "protection of the oceans, all kinds of seas including enclosed and semi-enclosed seas, coastal areas and the protection, rational use and development of their living resources". These papers were submitted through the secretariat to the third session of the Preparatory Committee for UNCED in August 1991. For this purpose, the Office participated in a series of meetings of the inter-agency working party convened by the UNCED secretariat, as well as the two sessions of the Preparatory Committee in 1991. In addition, it participated in the UNEP-organized Second Meeting of Senior Governmental Officials Expert in Environmental Law (Rio de Janeiro, Brazil). As inter-agency cooperation within the context of preparations for UNCED was close and extensive and provided numerous opportunities for discussion of other matters of common interest, additional inter-agency meetings in 1991 within the framework of the Inter-Secretariat Committee on Scientific Programmes Relating to Oceanography (ICSPRO) or Ad Hoc consultations were not held.

236. At its meeting from 17 to 19 April 1991, the Administrative Committee on Coordination decided that the agencies and bodies within the United Nations sytem should participate in the International Specialized Exhibition, Genoa 1992 "Christopher Columbus: Ships and the Sea" jointly under a common topic, and requested the United Nations to serve as liaison between the Exhibition organizer and the participating agencies and bodies. The Special Representative of the Secretary-General for the Law of the Sea has been designated as the United Nations Organizations Coordinator. He is currently

coordinating the preparatory work of sixteen agencies and bodies which have decided to participate under the main theme "The Oceans - Our Future".

237. The Office also participated in and contributed substantively to an Expert Group Meeting on the Establishment of a Caribbean Regional Centre for Marine Industrial Technology (December 1991). The objectives of the meeting, which was convened within the framework of UNIDO's programme on advanced technologies and UNEP's Caribbean Environment Programme (CEP), were to assess marine industrial technology needs and capabilities in the Caribbean; to assess the views and comments of Caribbean countries on the establishment of a Caribbean Centre for Marine Industrial Technology; to advise on a strategy for the establishment of a Centre and development of a Regional Programme to be implemented by it; and to make recommendations to UNIDO, as well as other cooperating international organizations and interested Caribbean countries on subsequent steps.

238. In addition, the Office was represented at and made contributions to the nineteenth session of the FAO Committee on Fisheries (8-12 April, Rome); the 9th meeting, Monitoring Committee on the Action Plan for the Caribbean Environment Programme; Special Meeting of the Bureau of Contracting Parties to the Convention on the Protection and Development of the Marine Environment of the Wider Caribbean Region (13-15 June, Kingston, Jamaica); and the meeting of Legal Experts on Revision of Guidelines for Maritime Legislation (14-18 October, Bangkok, Thailand).

Notes

1/ Acceded to the United Nations Convention on the Law of the Sea.

2/ Ibid.

3/ Note should be taken of a proposal submitted by Austria, Cyprus, Finland, Liechtenstein, Malta, San Marino, Sweden, Switzerland and Yugoslavia at the CSCE Negotiations on Confidence and Security Building Measures at Vienna in 1989. It encouraged participating States to inform other participating States of their intention to exercise the right of innocent passage of warship through their territorial sea (CSCE/WV.5).

4/ See William L. Schachte, Jr., "The value of the 1982 United Nations Convention on the Law of the Sea - Preserving our Freedoms and Protecting the Environment", presented at the Twenty-fifth Annual Conference of the Law of the Sea Institute.

5/ See for example Boundary Delimitation Treaty between the Republic of Venezuela and the Kingdom of the Netherlands (31 March 1978).

6/ Application filed in the maritime delimitation and territorial questions between Qatar and Bahrain (Qatar v. Bahrain).

Notes (continued)

7/ Judgment was reported in document A/45/721/Corr.1.

8/ See report of the Secretary-General, A/45/721, paras. 26-28.

9/ Documents A/AC.109/1045 (Ind), 1045/Add.1 (Ind), A/45/549 (Port), A/46/93-S/22249 (Port).

10/ A/46/131.

11/ Portugal maintains that the boundary of the continental shelf is the median line, in accordance with the 1958 Geneva Convention, to which both countries are Parties. The joint development zone under the Treaty straddles the median line (A/46/97-S/22285).

12/ For instance a European Parliament resolution of 17 May 1991 lists as a basic principle of Community security policy for the Mediterranean region, the importance of free movement of shipping in the Mediterranean and the Persian Gulf (A/46/523).

13/ See, for example, Disarmament Topical Papers 6, Confidence-building Measures in the Asia-Pacific Region, United Nations publication, Sales No. E.91.IX/16.

14/ See document A/46/410.

15/ Another instance where States have agreed to avoid conflicting activities in congested areas, as well as in or near international straits, is the requirement under IMO Guidelines that decommissioned offshore structures be entirely removed. See 1988 report (A/43/718, paras. 57 to 63).

16/ Document A/46/596.

17/ United Nations Seminar on Confidence-building Measures, Vienna, February 1991.

18/ The International Maritime Dangerous Goods (IMDG) Code includes a section on radioactive materials, based on the principles of IAEA Regulations for the Safe Transport of Radioactive Materials (amended 1990).

19/ Fifteen incidents confirmed, 4 known to involve no release. A further 16 cases remain unconfirmed. Four lost nuclear subs confirmed since 1963 - all in the Atlantic; 4 nuclear-powered spacecraft above the sea; a number of incidents involving loss of nuclear weapons and materials; and one accident involving a merchant ship carrying nuclear cargo. The IAEA database has modules on accidents and losses at sea, sea disposal operations, and low-level radioactive liquid releases from nuclear installations.

20/ See Parts XIII and XIV of the Convention.

Notes (continued)

21/ The Montevideo Programme of International Environmental Law is to be revised and expanded by an expert meeting in October, convened by UNEP. Since it was formulated before the adoption of the Convention on the Law of the Sea, special attention will be given to its proper reflection in the new Programme.

22/ MEPC.49(31).

23/ Proposal of France in NAV 37/14/3. Some States have already imposed reporting requirements, e.g. Netherlands Shipping Traffic Act. Some States have combined IMO-approved traffic separation schemes with an inshore vessel traffic service (VTS).

24/ See the 1989 report, A/44/650, para. 57, and the 1990 report A/45/721, para. 92, on the Caribbean Protocol.

25/ For declarations on the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, see paras. 10-13 of the 1990 report, A/45/721. A number of declarations, included in the Final Act of the Conference, referring to law of the sea issues were made at the time of adopting the 1989 Basel Convention: by Japan, the USSR, the United States, Colombia, Mexico, Portugal, Uruguay, Venezuela, and German Democratic Republic. Note also United States Bill for the implementation of Basel Convention clarifies that "movement through the territorial sea of a country consistent with international navigation rights and freedoms shall not, by itself, imply that such a country is a transit country".

26/ See para. 83 of the 1990 report, A/45/721.

27/ See C/ES 16/5/Add.1. The request was made by the United States of America (LEG 65/7).

28/ MEPC 31/21/Add.1.

29/ Existing special areas under MARPOL Annex I (oil): Mediterranean Sea, Baltic Sea, Black Sea, Red Sea, the Gulfs, the Gulf of Aden, Antarctica. Under MARPOL Annex II (noxious liquid substances): Baltic Sea and Black Sea. The addition of Antarctica has been approved in principle. Under Annex V (garbage): Mediterranean Sea; Baltic Sea, Black Sea, Red Sea, the Gulfs, North Sea, Antarctica, Wider Caribbean (corresponding to the area of the Cartagena Convention, and according to a phased subregional approach, beginning with the Gulf of Mexico).

30/ The Guidelines, para. 1.3.7.

31/ Ibid., para. 1.3.14.

32/ See articles 22, 41 and 53 of the Convention on the Law of the Sea.

Notes (continued)

33/ See para. 102 of A/45/721.

34/ The 1991 Bamako Convention includes a provision to "control all carriers from non-Parties" as a means to prohibit ocean dumping of hazardous wastes in the territorial sea and exclusive economic zone. The next meeting of the Parties to the Barcelona Convention to be held in October 1991 will discuss a draft protocol for the Mediterranean, covering shipment and disposal of wastes.

35/ Note also that piracy and armed robbery at sea and in port is a continuing problem: 259 such incidents took place over a one-year period. IMO will now circulate quarterly circulars containing reports of incidents.

36/ 1990 Annual Report of the Institute of London Underwriters. It also shows a wide variation in the loss ratios of fleets, the worst being 114 times that of the best in fleets of 2 million tons or more.

37/ The Assembly will also be asked to approve a schedule for phasing out existing single-hull tankers and introducing the new requirements, and to approve interim rules.

38/ The Annex to the Convention deals with questions of reimbursement for costs incurred by nations that provide emergency assistance. While there is no provision on the "polluter pays" principle, it is upheld in the preamble to the Convention.

39/ Given the complex demands of MARPOL, close cooperation has now been established between MOU countries and Parties to the 1983 Bonn Agreement for Cooperation in dealing with Pollution of the North Sea by Oil and Other Harmful Substances, in order to provide early notification of incidents to port-control authorities. MOU Members have also broadened their contacts to include Members of the Barcelona and Helsinki Conventions.

40/ See articles 217, 218 and 220 of the Convention on the Law of the Sea.

41/ See e.g. MSC 59/21/1.

42/ Developments with respect to large-scale pelagic driftnet fishing are presented in the report of the Secretary-General (A/46/615 and Add.1).

43/ FAO Species Identification Sheets for Species of Interest to Fisheries and the FAO Species Synopsis Series provide the necessary tools.

44/ See COFI/91/7.

45/ Economic factors are beginning to receive more attention at the regional level also, e.g. WECAFC establishment of a Working Party on Fishery Economics and Planning.

Notes (continued)

46/ FAO Fish. Rep. No. 431, Suppl.

47/ The new guidelines follow the format of the previous Standard System for the Marking of Fishing Vessels, and are also intended to be used firstly on a voluntary basis. Guidelines in NAV 37/INF.9; Report of Consultation in NAV 37/INF.8.

48/ See NAV 37/6/1.

49/ The Community is one of the largest fishery managers in the world (annual catch from its EEZs is 8 per cent of world total; total fleet is more than 65,000 vessels).

50/ It may be noted that European Court of Justice in July 1991 ruled that United Kingdom legislation, designed to prevent "quota hopping" through restrictions on registration of fishing vessels, was incompatible with the Treaty of Rome.

51/ CECAF will decide in December on expanding its functions to include the formulation of scientifically-based regulatory measures and recommendations for their adoption and implementation. The 1969 ICSEAF Commission was terminated in July 1991 and no replacement is being contemplated.

52/ Similar efforts are being made in other regions, as illustrated by the recent establishment of ASEAN guidelines on fisheries monitoring, control and surveillance, and the recent exchanges on collective security in South-East Asia which dealt also with problems of illegal fishing.

53/ WECAFC session, November 1990. FAO Fish. Report No. 452.

54/ The ICCAT Convention area includes the Mediterranean.

55/ United Nations publication, Sales No. E.91.V.3.

56/ See IOC Assembly resolution XVI-16 and UNCED ... PC/70.

57/ Resolution LDC.40(13).

58/ Parties to the Paris Convention for the Prevention of Marine Pollution from Land-based Sources have since agreed that this practice would constitute a potential land-based source and will therefore fall within the competence of the Convention (PARCOM Rec 91/5).

59/ Note that Oslo Commission has prepared detailed guidelines for the disposal of offshore installations at sea. LDC 14/3/4.

60/ See reports of the Chairman of the Preparatory Commission (LOS/PCN/L.92 and LOS/PCN/L.97).

Notes (continued)

61/ LOS/PCN/BUR/R.7 and Corr.1 and LOS/PCN/117.

62/ LOS/PCN/BUR/R.8 and LOS/PCN/122.

63/ See reports of the Chairman of Special Commission 1 (LOS/PCN/L.88 and LOS/PCN/L.93).

64/ See reports of the Chairman of Special Commission 2 (LOS/PCN/L.90 and Corr.1 and LOS/PCN/L.95).

65/ See reports of the Chairman of Special Commission 3 (LOS/PCN/L.89 and LOS/PCN/L.94).

66/ See reports of the Chairman of Special Commission 4 (LOS/PCN/L.91 and LOS/PCN/L.96).

67/ A/45/6/Rev.1.

68/ A/45/712. Law of the Sea: Realization of the benefits under the United Nations Convention on the Law of the Sea: Needs of States in regard to development and management of ocean resources. Report of the Secretary-General.

69/ A/46/722. Law of the Sea: Realization of Benefits under the United Nations Convention on the Law of the Sea: Measures undertaken in response to needs of States in regard to development and management of ocean resources, and approaches for further action. Report of the Secretary-General.

70/ In connection with the UNCED preparations and pursuant to a decision taken by the Preparatory Committee at its first session in August 1990, the Office cooperated with the Government of Canada by providing Secretariat staff and substantive input for the meeting.

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FINANCING OF THE UNITED NATIONS TRANSITION ASSISTANCE GROUP

Report of the Secretary-General

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 2	2
II.	STATUS OF ASSESSED CONTRIBUTIONS	3 - 4	2
III.	BALANCE IN THE SPECIAL ACCOUNT FOR THE UNITED NATIONS TRANSITION ASSISTANCE GROUP	5 - 9	3
IV.	REPATRIATION OF NAMIBIANS BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES	10 - 13	7
V.	OTHER ASSETS OF THE UNITED NATIONS TRANSITION ASSISTANCE GROUP	14	10
VI.	OBSERVATIONS	15	10
VII.	ACTION TO BE TAKEN BY THE GENERAL ASSEMBLY AT ITS FORTY-SIXTH SESSION	16	10
Annex.	United Nations High Commissioner for Refugees: programme for the repatriation of Namibians (12 June 1989 to 30 June 1990)		11

I. INTRODUCTION

1. By resolution 43/232 of 1 March 1989, the General Assembly appropriated an amount of $416,162,000 gross ($406,621,000 net) for the operation of the United Nations Transition Assistance Group (UNTAG) in Namibia during its 12-month mandate period beginning 1 April 1989. The General Assembly, having reviewed the report of the Secretary-General (A/45/997 and Corr.1) on the second budget performance of UNTAG, adopted resolution 45/265 on 17 May 1991, in which it, inter alia, noted that the net estimated cost of the United Nations Transition Assistance Group to Member States had been revised to $345,314,701 and that the financial obligations of Member States to the Group should be adjusted accordingly; decided that the Member States whose payments to the Group exceeded their adjusted financial obligations should be credited in full with the difference; requested the Board of Auditors to take measures necessary to expedite the audit of the Special Account for the United Nations Transition Assistance Group and submit its findings to the General Assembly at its forty-sixth session; took note of the proposal of the Secretary-General that the shortfall of $3,336,000 for funding the repatriation of some 45,000 Namibians by the Office of the United Nations High Commissioner for Refugees be charged to the Special Account; invited the Secretary-General to renew his appeal to Governments to meet this reported shortfall, and requested the Secretary-General to submit a report on this issue, through the Advisory Committee, to the General Assembly at its forty-sixth session; and urged those Member States that are still in arrears to make every effort to pay their assessed contributions to the Group.

2. The present report addresses the current estimated unutilized balance in the UNTAG Special Account and the funding of the shortfall of the repatriation of Namibians. The report of the Board of Auditors on the audit of the UNTAG Special Account is submitted in document A/46/750.

II. STATUS OF ASSESSED CONTRIBUTIONS

3. Initial assessments totalling $409,555,646 had been apportioned among Member States in respect of UNTAG based on General Assembly resolution 43/232. Of this amount, $386,438,902 had been paid as at 30 April 1991. Subsequently, in accordance with paragraphs 2 and 3 of Assembly resolution 45/265, the amount apportioned was reduced to $345,314,701. Member States were advised of their respective adjusted financial obligations to UNTAG, of credits due to those who had overpaid and of assessed contributions that had remained outstanding. Based on collections of $386,438,902 as at 30 April 1991 and after making adjustments to the amounts apportioned, the credits due to Member States amounted to $46,011,473 and unpaid contributions amounted to $4,887,272.

4. As at 30 November 1991, Member States had utilized $26,247,433 of the $46,011,473 in credits due to them, as summarized below. The unutilized credit balance payable to certain Member States amount to $19,782,606. At the same time uncollected assessed contributions amounted to $3,431,580.

		US dollars
1.	Contributions overpayments:	
	Overpayments as at 30 April 1991	46 011 473
	Additional overpayments, May 1991	18 566
	Total overpayments	46 030 039
	Less:	
2.	Credits utilized as at 30 November 1991	(26 247 433)
3.	Unutilized credit balance	19 782 606

III. BALANCE IN THE SPECIAL ACCOUNT FOR THE UNITED NATIONS TRANSITION ASSISTANCE GROUP

5. As noted in General Assembly resolution 45/265, the revised estimated costs of UNTAG amounted to $345,314,701 net, as at 30 April 1991. That figure reflects the following elements:

		US dollars
(1)	Revised total operating costs as at 30 April 1991	368 341 000
(2)	Less:	
	Voluntary contributions in kind	10 632 343
	Voluntary contributions in cash	13 050 000
	Miscellaneous income	1 990 697
	Subtotal (1-2)	342 667 960
(3)	Add:	
	United States share of staff assessments	2 645 741
	Total resources (net)	345 313 701

6. As at 30 November 1991, the estimated operating costs of UNTAG were further reduced to $366,234,324 to reflect changes in actual disbursements, liquidation of outstanding obligations and revised requirements for the repatriation of Namibians. An additional amount of $2,106,676 is thus estimated as unutilized balance representing the difference between the net operating costs ($368,341,000) estimated as at 30 April 1991 and revised operating costs ($366,234,344) as at 30 November 1991.

7. Table 1 recapitulates the changes in income and operating expenditures since the last report to the General Assembly and, taking into account the amount already credited to Member States under resolution 45/265, revises the unencumbered balance in the UNTAG Special Account to $39,276,257, including interest earned as at 31 October 1991.

8. The difference ($39,276,257) between revised total income ($407,860,581) and revised net operating expenditures ($368,584,324) includes, as at 30 November 1991, $3,431,580 outstanding assessments from 57 Member States as indicated in paragraph 4 above. The unutilized balance in the UNTAG Special Account is therefore $35,844,677.

Table 1

Cumulative income and operating expenditures of UNTAG
for the period from 1 April 1989 to 30 March 1990

		US dollars	
		30 Apr. 1991	30 Nov. 1991
1.	INCOME		
	Net appropriations	406 621 000	
	Add: United States share of staff assessments	2 934 646	
	Less: Applied credits	(64 240 945)	
	Assessed contributions	345 314 701	345 314 701
	Voluntary contributions in kind	10 632 343	10 632 343
	Voluntary contributions in cash a/	13 050 000	13 104 348
	Interest income b/	-	29 867 540
	Miscellaneous income	1 990 697	8 941 649
	Subtotal	25 673 040	62 545 880
	Total	370 987 741	407 860 581
2.	NET EXPENDITURES c/		
	Regular operating costs d/	357 708 657	355 601 981
	Voluntary contributions in kind e/	10 632 343	10 632 343
		368 341 000	366 234 324
	Add: United States share of total staff assessments	2 646 741	2 350 000
	Total	370 987 741	368 584 324
3.	UNENCUMBERED BALANCE (1-2)	-	39 276 257
4.	OUTSTANDING ASSESSMENTS	-	3 431 580
5.	UNUTILIZED BALANCE (3-4)	-	35 844 677

a/ From Japan ($13,050,000) and Cameroon ($54,348).

b/ As at 31 October 1991.

c/ For the period from 1 April 1989 to 30 June 1990.

d/ Includes a provision for the cost of repatriating Namibians by UNHCR as originally estimated ($3,336,000) plus a revised additional estimate of $15,395.

e/ From Germany ($2,896,088), Greece ($350,000), Spain ($2,815,000), Sweden ($583,000) and United States of America ($3,988,255).

9. The revised net operating costs of $366,234,324 consist of $314,350,543 disbursements and $51,883,781 in unliquidated obligations. The distribution of the unliquidated obligations is shown in the table below.

Table 2

Status of unliquidated obligations of UNTAG
as at 30 November 1991

(In United States dollars)

(a)	Outstanding claims from Governments		
	Military observers	26 156	
	Rotation of contingents	1 578 750	
	Rations	51 624	
	Contingent-owned equipment	33 000 000	
	Vehicle maintenance	2 448 250	
	Telecommunications equipment	547 534	
	Death and disability	7 960 000	
	Freight and related costs	1 676 331	
	Aircraft rental	554 464	
	Miscellaneous supplies	26 000	
	Tentage	13 500	47 882 609
(b)	Other obligations		649 777
(c)	Repatriation of Namibians (UNHCR)		3 351 395
	Total unliquidated obligations		51 883 781

IV. REPATRIATION OF NAMIBIANS BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

10. Based on the invitation contained in paragraph 10 of resolution 45/265, alternative options to meet the shortfall in the costs of repatriating Namibians were explored in consultation with UNHCR. The High Commissioner has accordingly reviewed and examined all reasonable options for the financing of the shortfall.

11. The total expenditure for the repatriation operation, the voluntary contributions actually received and the resulting shortfall is shown in table 3 below. The shortfall, which amounts to $3,351,395, is $15,395 higher than the estimate included in the second performance report.

Table 3

Shortfall in repatriation of Namibians (UNHCR)

Budget sector	US dollars	
Food	1 692 793	
Transportation/logistics	19 939 457	
Domestic needs/household support	2 474 150	
Health/nutrition	661 561	
Shelter/other infrastructure	2 574 572	
Legal assistance/protection	239 342	
Operational support to implementing partners	1 900 255	
Programme support (UNHCR)	5 844 955	35 327 085
Voluntary contributions		(31 975 690)
Shortfall		3 351 395

12. The High Commissioner has concluded that it would not be possible to cover the shortfall from any other source of funds available to UNHCR. Contributions to UNHCR's programmes are generally earmarked for specific purposes and 1990 surpluses, if any, from such programmes were automatically transferred, in accordance with UNHCR's financial rules, to the 1991 programmes approved by the Executive Committee. The repatriation of the Namibians was a special programme of UNHCR for which funding was to be provided specifically from earmarked contributions in response to a particular fund-raising appeal. Regrettably the response fell short of the mark by $3,351,395.

13. The repatriation of Namibians was seen as an integral part of the UNTAG operation in the achievement of Namibia's independence. For that reason, the Secretary-General had indicated as early as 7 February 1989, in his explanatory statement to the Security Council, 1/ that he would not hesitate to recommend alternative arrangements if there was a shortfall in the funding of the Namibian repatriation programme. Indeed, the amount of $35,327,085, which was the eventual cost of the programme, fell short of the voluntary contributions and this led to the request contained in the second performance report on UNTAG (A/45/997, annex IV, para. 11) that the shortfall be absorbed from the unencumbered balance under the Special Account for UNTAG. This alternative recommendation by the Secretary-General continues to be the most feasible solution, in light of the preceding events in soliciting voluntary contributions for the repatriation programme. As can be seen in table 4, the appeal for voluntary contributions solicited responses from 42 countries, the European Economic Community and two non-governmental organizations as detailed below. Additional details in respect of the 1990 programme for the repatriation of Namibians are provided in the annex.

Table 4

Contributions to UNHCR for the Namibia repatriation operation at 27 October 1989

	United States dollars		United States dollars
Governments			
Angola	20 000	Luxembourg	240 964
Antigua and Barbuda	500	Malaysia	20 000
Australia	413 223	Malta	1 000
Austria	300 000	Morocco	50 000
Bangladesh	10 000	Netherlands	498 872
Barbados	1 000	New Zealand	47 879
Belgium	146 341	Nigeria	100 000
Botswana	5 000	Norway	2 501 042
Burkina Faso	3 698	Republic of Korea	10 000
Canada	1 663 078	Singapore	5 000
Denmark	2 500 000	Spain	409 836
Finland	2 516 932	Sri Lanka	2 000
France	1 479 290	Sweden	2 677 165
Germany	2 645 503	Switzerland	909 091
Greece	340 000	Togo	5 000
Guinea	1 000	Thailand	1 000
Haiti	1 000	Turkey	10 000
Iceland	3 000	United Kingdom of Great Britain and Northern Ireland	877 193
Italy	1 000 000	United States of America	5 000 000
Jamaica	5 000	Zambia	4 930
Japan	2 463 624	Subtotal	28 901 740
Liechtenstein	12 579		
Intergovernmental organizations			
EEC	781 250		
EEC	1 104 972		
		Subtotal	1 886 222
NGOs and other donors			
Austcare	51 538		
SASO (USA)	1 200		
		Subtotal	52 738
Total cash contributions			30 840 700
Temporary loan from other special programmes	1 134 990		
		Subtotal	1 134 990
Total income available			31 975 690

/...

V. OTHER ASSETS OF THE UNITED NATIONS TRANSITION ASSISTANCE GROUP

14. It is recalled that on the second performance report on UNTAG (A/45/997, annex V, schedule I), property retained by the United Nations was costed with a residual value of $14,505,309. Portions have been utilized in other peace-keeping operations, for which an amount of $8,702,175 has been credited to the UNTAG Special Account as miscellaneous income. The remaining UNTAG property currently being held is thus valued at $5,803,134.

VI. OBSERVATIONS

15. In his report to the current session of the General Assembly on the financial situation of the United Nations (A/46/600/Add.1), the Secretary-General has put forward a recommendation intended to address the financial problems facing the Organization. Among the proposed recommendations is the establishment of a Peace-keeping Reserve Fund of $50 million which is to be used as working capital for new peace-keeping operations. It is proposed, therefore, should the General Assembly approve the recommendation proposed by the Secretary-General in paragraph 46 of his report for the establishment of the Peace-keeping Reserve Fund, that the additional unutilized balance of $39,276,257 referred to in paragraph 7 above be transferred to the Reserve Fund.

VII. ACTION TO BE TAKEN BY THE GENERAL ASSEMBLY AT ITS FORTY-SIXTH SESSION

16. The actions that appear to be required in connection with the financing of UNTAG are as follows:

(a) A decision on the disposition of the estimated additional unutilized balance of $39,276,257 in the UNTAG Special Account. It is recommended that this balance be retained in the Special Account until such time as the General Assembly reaches a decision regarding the proposed Peace-keeping Reserve Fund;

(b) A decision that the shortfall of $3,351,395 in the costs to UNHCR for the repatriation of Namibians be met through the transfer from the UNTAG Special Account to UNHCR.

Notes

1/ S/20457, para. 7.

ANNEX

United Nations High Commissioner for Refugees: programme for the repatriation of Namibians (12 June 1989 to 30 June 1990)

1. Between 12 June 1989 when the major airlift operation began and 30 June 1990 which marked the end of the programme, 43,387 Namibian exiles were brought back to Namibia with the assistance of the Office of the United Nations High Commissioner for Refugees. Of this number 35,553 persons returned from Angola, 3,841 from Zambia and 3,993 from 40 countries around the globe.

2. The overall budget and expenditures for the programme was composed of six projects within the main activities which were either geographical or substantive:

(a) One project facilitated the initial preparations for the repatriation exercise (including sensitizing refugees about repatriation), development of reception arrangements in the home country as well as the printing of 30,000 voluntary repatriation registration forms.

(b) Two separate projects, one each in Angola and Zambia, related to pre-departure operations. These projects provided basically the same assistance to the repatriates such as food and internal country of asylum transport during transit, blankets, cooking utensils, packing materials, immunization and temporary shelter. Funds were also provided for familiarization visits of Namibian leaders in exile to Namibia to acquaint them with the situation and to report back to their compatriots in Angola and Zambia, respectively. Both projects provided for the local transport of the repatriates to transit centres and points of departure.

(c) A general project was established to provide for the international procurement and delivery of supplies to Angola, Zambia and Namibia. These included household items and those needed for the construction and running of reception centres. Charges of charter aircrafts to airlift the majority of the repatriates from their respective asylum countries, including international air transport from Zambia and Angola (necessary from neighbouring Angola given the prevailing security situation at the time) and air tickets for individual repatriates or small groups of repatriates from other countries. The expenditures for international transport of repatriates and their personal belongings amounted to some US$13 million. A total of 14 landcruisers and light vehicles which were procured under this project for operation purposes and were utilized by UNHCR in Namibia. After the completion of the repatriation activities, these vehicles were placed at the disposal of the implementing partner/organization to enable it to continue catering for vulnerable Namibians, most of whom were returnees.

(d) To provide adequate assistance to the returnees once back in Namibia, one project covered the procurement, transport and distribution of food, the hire of buses and trucks to transport them and their effects to

their home areas, the procurement and distribution of additional household goods, mainly bedding, cooking utensils, etc.

(e) One project covered all administrative and personnel expenditures, including procurement of office supplies and equipment.

3. Below is an overview of the various project expenditures by sector and brief descriptions of the main expenditures under the respective sector concerned.

Budget sector		US dollars
Food	Complementary food and meals at transit and reception centres (Angola, Zambia, Namibia)	1 692 793
Transport/logistics	In country transport food (Namibia)	19 939 457
	inland transport (Angola, Namibia) of repatriates and their belongings	
	in country (Namibia) and international transport (to Angola, Zambia, Namibia) of non-food items	
	procurement of vehicles	
	international transport (from various countries to Namibia) of repatriates	
	maintenance/repair vehicles	
Domestic needs/ household support	Procurement blankets, stoves, cooking utensils carrier bags, cartons	2 474 150
Health/nutrition	Immunization of repatriates (Angola, Zambia)	661 561
	procurement of medical supplies	
	remuneration of health staff recruited from among the skilled repatriates (Angola, Zambia, Namibia)	

Budget sector		US dollars
Shelter/other infrastructure	Procurement of family tents and storage/office facilities (Angola, Zambia, Namibia)	2 574 572
	construction/renovation of reception and transit facilities (Angola, Zambia, Namibia)	
Legal assistance/ protection	Orientation trips to Namibia of leaders among prospective repatriates (Angola, Zambia)	239 342
	training and remuneration of repatriation/ registration clerks	
Agency/operational support	Procurement of office supplies supplies and equipment (Angola, Zambia, Namibia)	1 900 255
	procurement of vehicles (Angola, Namibia)	
	remuneration of staff (Angola, Zambia, Namibia)	
	printing of 30,000 voluntary repatriation registration forms	
Programme support	HCR staff costs (salaries and common staff costs)	5 844 955
	procurement office supplies and equipment	
	office space in Namibia (one office of the Chargé de Mission, two sub-offices, three field offices)	
	procurement of vehicles	
	TOTAL	35 327 085

4. The above expenditure of $35,327,085 was recorded in the UNHCR accounts in December 1990 and relate to the Appeal for the Namibia repatriation operation. The total of all contributions received towards the repatriation operation amounted to $31,975,690, resulting in a shortfall of $3,351,395.

5. Between December 1990 and January 1991, however, UNHCR, in cooperation with the Governments of Zambia and Namibia and in accordance with the residual responsibilities assigned to UNHCR under Security Council resolution 435 (1978), organized the airlift of 2,266 Namibian refugee students from Nyango (Zambia) to Namibia. The students had stayed behind during the mass voluntary repatriation to complete the school year in Zambia. Funds for this additional activity in the amount of $900,515 were provided from the Emergency Fund of UNHCR.